

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE PACKARD, EDWARD BECK,
MICHELLE BERGER, ARI COWAN,
CONNOR HICKS, CHARLES MEACHEM,
CHRIS PHILLIPS, LARRY SWETMAN
and AMADON DELLEBA, individually
and on behalf of all other
similarly situated,

Case No.:
15-cv-71310
(AT) (RLE)

Plaintiffs,

vs.

THE CITY OF NEW YORK, a
municipal entity,
Defendant.

October 4, 2018
10:18 a.m.

Deposition of THE CITY OF NEW YORK, by HEATHER
PERKINS, taken by Plaintiffs, held at the offices of
Wylie Stecklow, PLLC, 217 Centre Street, New York,
NY 10013, pursuant to notice and order, before
Elizabeth F. Tobin, a Registered Professional
Reporter and Notary Public of the State of New
York.

A P P E A R A N C E S:

On behalf of the Plaintiffs:

WYLIE STECKLOW, PLLC
217 Centre Street
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212.566.8000

BY: WYLIE M. STECKLOW, ESQ.
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JON AVINS, ESQ.

On behalf of the Defendant:

CORPORATION COUNSEL
100 Church Street
New York, New York 10007
212.356.3531

BY: AMY ROBINSON, ESQ.
arobinso@law.nyc.gov
JONI FORSTER-GALVIN, ESQ.

ALSO PRESENT:

JOE SHARKEY

1
2 IT IS HEREBY STIPULATED AND AGREED
3 by and between the attorneys for the
4 respective parties herein, that filing and
5 sealing be and the same are hereby waived.

6 IT IS FURTHER STIPULATED AND AGREED
7 that all objections, except as to the form
8 of the question, shall be reserved to the
9 time of the trial.

10 IT IS FURTHER STIPULATED AND AGREED
11 that the within deposition may be sworn to
12 and signed before any officer authorized to
13 administer an oath, with the same force and
14 effect as if signed and sworn to before the
15 Court.

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1 H. Perkins

2 H E A T H E R P E R K I N S ,
3 of lawful age, called by the Plaintiffs for
4 examination pursuant to the Federal Rules of Civil
5 Procedure, having been first duly sworn, as
6 hereinafter certified, was examined and testified as
7 follows:

8 EXAMINATION OF HEATHER PERKINS

9 BY MR. STECKLOW:

10 MR. STECKLOW: The time is now 10:19 a.m.
11 We are in my office at 217 Centre Street. My
12 name is Wylie Stecklow. We're here for the
13 deposition of the City of New York by Sergeant
14 Heather Perkins.

15 The witness has been sworn. Sitting to
16 my left is the court reporter whose name is --

17 COURT REPORTER: Elizabeth Tobin.

18 MR. STECKLOW: -- Ms. Tobin. Then we
19 have the witness. Then we have one of the
20 attorneys for the witness, ACC Amy Robinson.
21 Then we have an attorney from the City Legal
22 Bureau Joan Forster-Galvin. And then sitting
23 next to me is Jon Avins, an attorney. Sitting
24 next to Jon Avins is Joe Sharkey, a clerk.

25 Q. Good morning. We are going to start with

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H. Perkins

some basics.

Have you been deposed before?

A. Yes, I have.

Q. How many times have you been deposed before?

A. Two times.

Q. Were they both in your capacity as a police officer?

A. Yes.

Q. Were they both on behalf of the NYPD?

A. No, they were not.

Q. Can you tell me what the first one was?

A. The first one that I remember is one of my officers under my supervision and myself were being sued for false arrest.

Q. Was that a federal or state case?

A. State.

Q. Can you tell me about the second one?

A. I don't remember.

Q. You don't remember if it was for the city?

A. No, I don't remember. It was before that and I don't remember the circumstances surrounding it.

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H. Perkins

Q. Okay. Fair enough. Because you've been
deposed twice, I'm going to assume you understand
some of the basics. I'm going to go through them
quicker than I would normally do for somebody who
has not been deposed before.

A. Okay.

Q. So, if you don't understand the question,
you need to let me know. If you don't hear a
question, you need to let me know. If my question
is unclear in any way, you need to let me know. If
you don't know the answer to my question, you need
to let me know.

Is that all understandable?

A. Yes.

Q. And agreed to?

A. Yes.

Q. If there's something that might help you
remember an answer to my question, you need to let
me know. If there's any reason -- I'll stop there.

Is that acceptable?

A. Yes.

Q. Is there any reason why you can't testify
truthfully and accurately here today?

A. No.

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H. Perkins

Q. Is there any mental or health reason why you can't testify truthfully and accurately here today?

A. No.

Q. I'm going to ask you some questions that I'm uncomfortable asking, but I'm trying to get more comfortable.

Have you consumed any alcohol within the last 24 hours?

A. No.

Q. Have you taken any drugs in the last 24 hours?

A. No, I have not.

Q. Are you aware of any physical condition that would affect your ability to testify truthfully and accurately here today?

A. No, I am not.

Q. Are you aware of any mental conditions that would affect your ability to testify truthfully and accurately here today?

A. No, I am.

Q. Are you taking any medications that would affect your ability to testify truthfully and accurately here today?

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H. Perkins

A. No.

Q. Are there any medications you're supposed to take but yet you're not taking that might affect your ability to testify truthfully and accurately here today?

A. No.

Q. So, is there any reason at all why you cannot testify truthfully and accurately here today?

A. No.

Q. And you are aware that you just swore an oath to tell the truth, the same oath that you would swear to if you were in a court of law -- a much nicer area, much nicer room, but it's the same oath to tell the truth, correct?

A. Yes.

Q. Do you understand at the end of this at some point you'll be provided a copy of the transcript and you can review it and make any changes that you think if the court reporter or myself didn't get the question right and you give an answer that wasn't transcribed accurately you're allowed to make a change to that? Do you understand that?

A. Yes.

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H. Perkins

Q. And you understand if you do make such a change, I'll be able to question you on that if we go to trial?

A. Yes.

Q. Now I'm going to explain a little bit about the 30(b)(6). And I think you've probably already been told by your attorney by 30(b)(6). Don't answer -- anything your attorney told you is an attorney-client communication and you should not express that out loud.

But when I ask you a question today, it's going to be asking the City of New York the question, correct?

A. Yes.

Q. And you're here to testify on behalf of the City of New York, correct?

A. Yes.

Q. So when I refer to you in this deposition, I'm really referring to the City of New York or the NYPD, correct?

A. Yes.

Q. And that if I use the word NYPD or I use the word City of New York, those are interchangeable for today for purposes of this deposition. Is that

1 H. Perkins

2 acceptable?

3 A. Yes.

4 Q. When I use the term document, I'm
5 referring to any kind of recorded information,
6 including paper records, electronic documents,
7 electronic information and databases, images and
8 video. Unless I expressly say I intend to limit it,
9 we're going to use the word document to be expansive
10 like that.

11 Is that acceptable?

12 A. Yes.

13 Q. You understand that your answers in
14 today's deposition will be binding on the City of
15 New York in the same way that any witness testifying
16 on their own behalf will be bound by their answers,
17 correct?

18 A. Yes.

19 Q. And do you agree that as a 30(b)(6)
20 witness representing the City in this deposition,
21 you're under a duty to inform yourself as to the
22 subject matter of this deposition?

23 A. Yes.

24 Q. And do you believe you've fulfilled that
25 obligation?

1 H. Perkins

2 A. Yes.

3 MR. STECKLOW: I want to mark as 1 and 2
4 these two items.

5 (Plaintiffs' Exhibit 1, procedures
6 and methods of training, marked for
7 identification.)

8 (Plaintiffs' Exhibit 2, notice,
9 marked for identification.)

10 Q. I ask you to look at No. 1 first and...

11 A. Yes.

12 Q. Then I ask you to look on page 9 at
13 number 33 on Exhibit 2.

14 MS. ROBINSON: This is one I don't get a
15 copy of?

16 MR. STECKLOW: No, I gave you a copy.

17 A. Yes.

18 Q. So, within Exhibit 1, it references
19 relevant training subjects; does it not?

20 A. Mm-hmm.

21 Q. And in Exhibit 2 in paragraph 33 it
22 defines relevant training subjects; does it not?

23 A. Yes.

24 Q. Are you prepared to testify today to the
25 relevant training subjects and to the topics that

1 H. Perkins

2 are provided in Exhibit 1?

3 A. Yes.

4 Q. Now, I'd like you to look at Exhibit 2.

5 Let's move to page 21.

6 A. Yes.

7 Q. And are you ready to testify as to 41
8 with a limitation that that should be 2004 to 2012?

9 MS. ROBINSON: You can answer.

10 A. Yes.

11 Q. 42?

12 A. Yes.

13 Q. 43?

14 A. Yes.

15 Q. I'm going to cross off 44. We're going
16 cross off 45. 46, development of curriculum,
17 lessons and classes?

18 A. Yes.

19 Q. 47, selection and training of faculty and
20 trainers?

21 A. Yes.

22 Q. 48, measurement of training learning or
23 training effectiveness including measurement of post
24 training results?

25 A. Yes.

1 H. Perkins

2 MS. ROBINSON: Can we go off?

3 (Discussion held off the record.)

4 Q. 49?

5 MS. ROBINSON: Objection. Beyond the
6 scope. You can answer.

7 A. I don't have a full knowledge of that,
8 but I do have some knowledge of that.

9 Q. 50, maintenance of records concerning
10 training?

11 A. Yes.

12 Q. 51, the people, police units or civil
13 government units responsible for or involved in acts
14 of the City of New York or the NYPD concerning the
15 topic items within the Section IV training?

16 A. Yes.

17 MS. ROBINSON: Just an objection. 51 was
18 modified.

19 Q. Now let's look at 53. Training
20 concerning the relevant training subjects, we've
21 already answered that. You are ready to testify to
22 that, correct?

23 A. Correct.

24 Q. B we're going to cross off. C, training
25 concerning constitutional limits on police power to

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H. Perkins

arrest, seize or detain civilians in public places.

A. Yes.

Q. Are you ready to testify about that?

A. Yes.

Q. Are you ready to testify about training concerning constitutional limits on police power --

53-D, are you ready to testify on training concerning constitutional limits on police power to regulate the exercise of civilians First Amendment rights to speech, assembly and the redress of grievances?

A. Yes.

Q. 54, are you ready to testify about training concerning particular duties, issues, events or occurrences during the time period of June 1st, 2011 to September 17th, 2012 and training concerning "Occupy Wall Street" or concerning public protests and assemblies in public places?

A. Yes.

Q. I think B was crossed off. C, are you ready to testify about training concerning particular duties, issues, events or occurrences during the time period January 31st, 2003 to September 2nd, 2004 training concerning protests

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H. Perkins

related to the Republican National Convention or concerning public protests and assemblies in public places?

A. Yes.

Q. D is crossed off. E is crossed off. F is crossed off. G, H, I, all crossed off.

So we are now on 54. Can you read 54?

A. Weren't we just on 54?

Q. I'm sorry. 55. Withdrawn. We're now on 55.

Can you read 55 and tell me if you're ready to testify as to 55? It incorporates other topics from what we've already discussed into it.

MS. ROBINSON: Have you asked a question?

MR. STECKLOW: If she's ready to testify as to topic 55.

MS. ROBINSON: Then I'm just going to make an objection and say it's outside the scope. I think that we deleted this one.

MR. STECKLOW: I didn't see it under my notes, but honestly I'm not that concerned about it.

MS. ROBINSON: Okay. You can answer. I think it's outside the scope.

1 H. Perkins

2 A. So, any training with -- just if you
3 could clarify.

4 MR. STECKLOW: I'm going to withdraw 55
5 so we don't get confused by it.

6 Q. When did you start preparing for today's
7 deposition?

8 A. In August.

9 Q. When was your first communication with
10 any attorney in preparation for today's deposition?

11 A. With regard to setting up a time to meet
12 or actually meeting?

13 Q. Any preparation.

14 A. In August.

15 Q. When in August?

16 A. I don't have a particular date.

17 Q. Early, late, mid?

18 A. Mid-August.

19 Q. Was that a meeting or was that a
20 communication to set up a meeting?

21 A. Communication to set up a meeting.

22 Q. When was your first actual meeting?

23 A. This past Tuesday.

24 Q. That was your first substantive meeting
25 or preparation for today's deposition?

1 H. Perkins

2 MS. ROBINSON: Objection.

3 Mischaracterizing her testimony.

4 MR. STECKLOW: It was a question. That's
5 why I asked it, to understand if that's what
6 she was saying.

7 A. It was the first meeting with somebody to
8 prepare for the testimony. That's not the first
9 time that I prepared for my testimony.

10 Q. Okay. Thank you. What did you do
11 between the phone call in mid-August, more or less,
12 and this meeting last -- this past Tuesday to
13 prepare?

14 A. Reviewed materials, training materials,
15 tried to find the documents that would have covered
16 the scope of what I had to prepare for. I discussed
17 getting those documents or finding those documents
18 with members of the training bureau so I could
19 prepare for the testimony.

20 Q. Okay. And where did you look for the
21 materials that you were searching for?

22 A. There's the curriculum evaluation unit
23 which maintains the previous academy classes,
24 material for training recruits, so I talked with
25 them and got those materials. I also spoke with

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H. Perkins

Sergeant Newman who is the sergeant in charge of the archives who has access to materials.

Q. Was that in August or September?

A. That was in August.

Q. Did you receive any materials from your attorney to review in August?

A. Yes.

Q. Which materials did you receive?

A. It was materials that were the same materials that I had gotten from the curriculum evaluation. It was the lesson plans and student guide materials.

Q. You said you met with your attorney this past Tuesday. Had you spoken to her on the phone prior to that since the call in mid-August you described?

A. To set up a meeting, yes.

Q. Did you have a substantive conversation?

A. No.

Q. Were there any e-mail communications that were substantive in the interim?

A. No.

Q. So, when you began to review training materials in August, what triggered that? The first

1 H. Perkins

2 phone call was just to set up a meeting?

3 A. Because I was advised as to what I would
4 be expected to be prepared to do in preparation for
5 being a witness.

6 Q. Okay. Have all the documents that you
7 looked at been produced in this case, to the best of
8 your knowledge?

9 A. To the best of my knowledge, yes.

10 Q. And when did you -- withdrawn.

11 Did you watch any video in preparation
12 for today's deposition?

13 A. Yes, I did.

14 Q. How many videos did you watch?

15 A. Five or six.

16 Q. Can you describe them?

17 A. They were YouTube videos of various
18 "Occupy Wall Street" incidents.

19 Q. Can you tell me any of them that you
20 recall; a date, a location or anything like that?

21 A. There was one video that I don't know
22 what the date was, but it was an interaction with
23 officers at an event area and it was a verbal
24 interaction between an officer and people on the
25 other side of the fence. There was no action taken.

1 H. Perkins

2 There was video of a group moving across
3 the street. I didn't see any police action taken in
4 that video, so I advanced to another one. There was
5 a video that wasn't the "Occupy Wall Street" but it
6 was under the "Occupy" title, so it was an "Occupy"
7 in the Bronx that I had looked at as well. And
8 those are the only three that I have specific memory
9 of the content.

10 MR. STECKLOW: I want to ask if all of
11 those videos have been produced.

12 MS. ROBINSON: I don't know what she
13 watched. She did this on her own initiative,
14 including the Bronx video.

15 Q. Did you turn over any of these videos or
16 turn them over to your attorney in any fashion?

17 A. No, because I didn't cite any of them at
18 the time. It was just going on and looking to see
19 what was on YouTube.

20 Q. What was the purpose of you doing that
21 search?

22 A. I did not personally attend any of the
23 "Occupy" events. I was not assigned detail to any
24 of those. It was just to try to get a sense of
25 what -- what the issue was that we were talking

1 H. Perkins

2 about. Outside of what you see on the news.

3 Q. I'm going to briefly just try to get an
4 outline of your NYPD history. Can you tell me when
5 you were in the academy?

6 A. I was appointed on the 29th of February
7 in 2000 and I graduated in October of 2000.

8 Q. 2/29/2000 to October. What was your
9 first assignment?

10 A. My first assignment out of the academy
11 was the Manhattan Traffic Control. At the time it
12 was Manhattan Traffic Task Force. They've since
13 changed the name.

14 Q. What does Manhattan Traffic Task Force
15 do?

16 A. They direct traffic in Manhattan.

17 Q. Do they give tickets as well or it's
18 just --

19 A. Yes.

20 Q. They do. Moving violations not parking
21 violations or both?

22 A. Both.

23 Q. How long were you at the Manhattan
24 Traffic Task Force?

25 A. From October of 2000 to January of 2000

1 H. Perkins

2 [sic]. It was a temporary holiday assignment.

3 MS. ROBINSON: Can you hear her?

4 (Discussion held off the record.)

5 A. 2001.

6 Q. Where were you transferred to after the
7 holiday assignment?

8 A. Transit District 4 in Manhattan.

9 Q. Where is that? Is that a subway
10 assignment?

11 A. Yeah. It's a -- a district is the
12 equivalent of a precinct for the subway and that's
13 in Union Square and it covers the east side of
14 Manhattan from 125th Street down to East Broadway.

15 Q. How long were you in that
16 assignment?

17 A. I was transferred out of there in
18 December of 2003.

19 Q. Where were you transferred to?

20 A. Chief of Personnel's Office.

21 Q. What does that office do?

22 A. That's the staff services section. I
23 worked at Spring 3100 which is the department
24 magazine.

25 Q. Were you a journalist? Were you an

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H. Perkins

editor?

A. I wrote stories and took pictures.

Q. What was your rank at that point?

A. I was a police officer.

Q. Was that an assignment that you requested?

A. Yes.

Q. How long were you there for?

A. I was there until May of 2008.

Q. Where were you transferred in May of '08?

A. In May of '08 I was promoted to sergeant and transferred to Transit District 23 in Queens, that's on Beach 116th Street.

Q. How long were you there for?

A. I was there until May or June of 2012 when I was transferred to the academy.

Q. What was your rank at the time you were transferred to the academy?

A. Sergeant.

Q. Were there any courses that you had to take before you were transferred to the academy?

A. No.

Q. Once you were at the academy, were there any courses you had to take before you began to

1 H. Perkins

2 instruct at the academy?

3 A. Methods of instruction.

4 Q. Anything else?

5 A. No.

6 Q. What was your highest educational degree?

7 A. My highest degree completed is a
8 bachelor's degree.

9 Q. Where was that?

10 A. At Hunter College.

11 Q. What year did you receive that degree?

12 A. '99.

13 Q. Have you ever been a party to litigation
14 involving the NYPD?

15 A. Was I sued, is that the question?

16 Q. No. Have you ever been a party to
17 litigation involving the NYPD on either side of the
18 V?

19 A. Have I ever sued the police department;
20 is that the question?

21 Q. Have you ever been involved in any
22 litigation involving the NYPD, either as a defendant
23 or plaintiff or witness in any fashion?

24 A. I was sued once as a sergeant.

25 Q. Is that the only time you've been a party

1 H. Perkins

2 to a litigation?

3 A. That I know, yes.

4 Q. So you were sued once as a sergeant, is
5 that the one we discussed earlier?

6 A. Yes.

7 Q. So you were never a party to any lawsuit
8 against the NYPD?

9 A. Correct.

10 MR. STECKLOW: Can we make this
11 Exhibit 3?

12 (Plaintiffs' Exhibit 3,
13 12-cv-02957-SAS ECF case complaint, marked
14 for identification.)

15 Q. I ask you to look at page 35 of this
16 document which is the second page.

17 A. Yes.

18 Q. Do you see your name on that, about the
19 fifth down?

20 A. Yes.

21 Q. I ask you to look at page 48.

22 A. Yes.

23 Q. Do you see the end of the caption there?

24 A. Yes.

25 Q. Who is the defendant in this action?

1 H. Perkins

2 A. The New York City Police Department.

3 Q. So, is this a case where you were a
4 plaintiff against the City of New York and the NYPD?

5 A. Yes, it is.

6 Q. What was this case about?

7 A. This was the -- this was the sergeants'
8 union filing against the Police Department with
9 regard to labor practices.

10 Q. So you were one of the plaintiffs in this
11 case?

12 A. Yes.

13 Q. And you were making a lawsuit against the
14 City of New York and NYPD concerning wages that you
15 were receiving?

16 A. Correct.

17 Q. You felt that the NYPD was treating you
18 unfairly in the wages you were being paid?

19 A. Correct.

20 Q. What was the resolution of this case?

21 A. The -- I believe the sergeants' union
22 won.

23 Q. Was it a settlement, a verdict? Do you
24 know how it resolved?

25 A. I don't know how it specifically

1 H. Perkins

2 resolved. But I believe it was -- we won.

3 Q. From 2004 to 2012 where was academy
4 training held?

5 A. From 2004 to 2012 it was held at 20th
6 Street in Manhattan. That was the location of the
7 police academy but not all academy trainings were
8 held at the academy.

9 Q. You're jumping ahead but I got that one
10 coming up.

11 Has that location changed since 2012?

12 A. Yes, it has.

13 Q. Where is it currently?

14 A. It is in College Point, Queens.

15 Q. When did that change?

16 A. That changed in 2014.

17 Q. At any one time was there more than one
18 location where the academy training was held?

19 A. Yes.

20 Q. And between 2004 and 2012 other than 20th
21 Street, Manhattan, where was academy training held?

22 A. Academy training was held at Rodman's
23 Neck in the Bronx.

24 Q. Anywhere else?

25 A. Avenue X in Brooklyn, 300 Gold Street in

1 H. Perkins

2 Brooklyn. And there are also trainings that were
3 conducted in precinct locations by academy personnel
4 and there were other locations for specific other
5 department locations for trainings as well.

6 Q. Okay. When you say other locations,
7 you've now described some very specific locations.
8 You described the precincts in general. In
9 addition, where else would the trainings take place?

10 A. The trainings could have taken place in a
11 number of different locations. Trainings could take
12 place at One Police Plaza. Trainings can take place
13 in other police facilities. There -- depending on
14 what the training is and necessitated, would be
15 where it would have been held.

16 Q. Just now you answered that it could have
17 been. Obviously I'm looking for facts so I want to
18 make sure we're not couching that in a way that
19 makes it not definitive. So, one of the topics that
20 you were prepared to testify about is location of
21 facilities where trainings take place, correct?

22 A. Yes.

23 Q. Can you testify definitively of other
24 locations in addition to the 20th Street Manhattan,
25 the Rodman's Neck in The Bronx, Avenue X in

1 H. Perkins

2 Brooklyn, 300 Gold Street in Brooklyn, the precincts
3 and One PP where the trainings took place between
4 2004 and 2012?

5 A. The Brooklyn Army Terminal, Floyd Bennett
6 Field, Livingston Street and that's the particular
7 locations that I can remember.

8 Q. I want to understand the different types
9 of trainings that took place. So, were these
10 trainings -- withdrawn.

11 So, were there classroom lecture
12 trainings given?

13 A. Yes.

14 Q. Were there classroom role play or
15 simulation trainings given?

16 A. Yes.

17 Q. Was there a field training given?

18 A. Yes.

19 Q. Was there a specific name that field
20 training had? I'm trying to get at, I know MOBEX or
21 mobile exercises, I believe, those are disorder
22 control trainings. So I don't know if the academy
23 calls them the same thing or if there's a different
24 word or if they merge and do them with DCU at times?

25 A. Okay. At this time the field training is

1 H. Perkins

2 a different type of training. That's a different
3 title of training. That's why I need the
4 clarification. As far as the names of trainings, I
5 don't know them specifically, all of them.

6 Q. But field training would be a name that
7 would be used by the academy?

8 A. Correct.

9 Q. Table top exercises, would that be a name
10 used by the academy for training?

11 A. Yes.

12 Q. Advanced command training, would that be
13 a name used?

14 A. Yes.

15 Q. InTac training, would that be a name used
16 by academy training?

17 A. At the time in question, yes.

18 Q. Did that change?

19 A. Yes.

20 Q. When did that change?

21 A. In 2015.

22 Q. And what did InTac training become?

23 A. It became more specific training. There
24 were different titles of the trainings. Instead of
25 putting it under one umbrella of InTac training, it

1 H. Perkins

2 was given specific titles for the training.

3 So, today we have fair and impartial
4 policing which would be considered that. We also
5 did the fundamentals of policing in 2015 which the
6 third day was a tactical component so that would
7 have been a considered a tactical training. There
8 are -- there is inservice tactical training that is
9 conducted at the range at this time.

10 But the title of InTac used to be an
11 umbrella term and now we talk about the individual
12 courses that are offered.

13 Q. Did the umbrella term solely relate to
14 tactical training?

15 A. Not solely, but doctor was a tactical
16 component to the training.

17 Q. So InTac could have tactical training and
18 something else or would it be tactical training or
19 something else?

20 A. And.

21 Q. So it would always have some tactics and
22 possibly something else attached to it?

23 A. Yes, because you can't teach tactics
24 absent of procedure in the law.

25 Q. So, would InTac training include

1 H. Perkins

2 classroom training?

3 A. Yes.

4 Q. So, you identified multiple locations
5 where training took place. How many of those
6 locations had classroom training?

7 A. Classroom training available?

8 Q. How many of the trainings that you've
9 identified that took place at these various
10 locations included classroom lecture-type training?

11 A. The precincts wouldn't have had classroom
12 in them. Although they would have not been a
13 tactical training, it would have been a different
14 kind of training. But the training locations that
15 were mentioned would have had classroom training in
16 them.

17 I also would like to add that Coney
18 Island, the rail yard at Coney Island, there's also
19 training there.

20 Q. Is that where the -- it's an MTA yard?

21 A. It's an MTA yard, correct.

22 Q. We've gone through a few different names
23 for the types of training that's done. Now we're
24 focused on 2004 to 2012. Did the academy
25 participate in or conduct other types of training

1 H. Perkins

2 that I haven't yet mentioned?

3 A. The training sergeants go to the academy
4 once a month and receive a packet of training that
5 they are then to go out to their commands and
6 deliver to the patrol personnel of their commands.

7 Q. And those training --

8 A. The personnel of their commands.

9 Q. And those trainings that the training
10 sergeants bring back are given at roll call?

11 A. Correct.

12 Q. Other than the sergeant training that you
13 just described -- which I believe is training
14 sergeants, correct?

15 A. Mm-hmm.

16 Q. -- is there any other type of training I
17 haven't yet identified that existed with the academy
18 from 2004 to 2012?

19 A. No.

20 Q. I want to identify some lesson plans and
21 then ask you if these were all of the lesson plans
22 that existed in that time frame.

23 Is that acceptable?

24 A. All of the lesson plans that existed with
25 regard to what?

1 H. Perkins

2 Q. With regard to academy training.

3 A. I don't know that I can -- there's a lot
4 of lesson plans with regard to academy training.
5 With regard to academy training on what subjects?

6 Q. I'm trying to be all inclusive at this
7 point. Obviously it sounds like I'm not going to be
8 complete and you're going to possibly add in some
9 and see where we're at.

10 A. Okay.

11 Q. So, the ones that I know of are custodial
12 offenses, maintaining public order, arrest
13 processing, summons, intro to law and justice,
14 authority to arrest, demonstrations.

15 Are there more lesson plans that I'm
16 unaware of?

17 A. Yes.

18 Q. Which ones can you identify?

19 A. Can I look at the list so I not repeat
20 what you have? Okay. So introduction to the Penal
21 Law, introduction to the NYPD, general rules and
22 regulations, discretion, integrity, integrity
23 crimes, policing professional -- policing
24 professionally, policing in a multicultural society,
25 crimes against persons, sex offenses, property

1 H. Perkins

2 crimes, weapons offenses, drug offenses, street
3 encounters, search and seizure, processing property,
4 auto crimes, auto procedures, police communications,
5 crisis intervention, policing emotionally disturbed
6 persons, domestic violence, children and
7 adolescents, crisis management. Did I say that
8 already?

9 Q. I think you did.

10 A. There are also lesson plans for domestic
11 violence workshop. There are also lesson plans for
12 street encounters workshop. There were also lesson
13 plans for operation of patrol vehicles, so
14 everything that happens to teach the recruits how to
15 drive. There are also lesson plans for how to teach
16 the recruits how to operate the firearms and use
17 their firearms. There are also lesson plans for
18 teaching nonmembers of service or teaching various
19 aspects of this to school safety agents, to civilian
20 promotees, to cadets who are civilian members of
21 service, to traffic agents that are civilian members
22 of service, to -- there are lesson plans for various
23 tactical inservice training programs.

24 There are lesson plans -- I didn't even
25 mention any of the recruit lesson plans that have to

1 H. Perkins

2 do with teaching of any of our physical training and
3 tactics training and tactics from their part of the
4 unit. That all falls under the academy. I know
5 that I've missed some but that's --

6 Q. You've done fantastic. Now I want to
7 focus on the lesson plans that involve First
8 Amendment rights. When I'm talking about First
9 Amendment rights, I'm going to restrict it to
10 protester rights and, more specifically, to sidewalk
11 protests and marches and demonstrations.

12 So with that understanding, where do you
13 believe the academy has lesson plans that touch on
14 those topics?

15 A. Introduction to law and justice,
16 introduction to Penal Law, maintaining public order,
17 authority to arrest, summonses.

18 Q. That's my handwritten notes. It says
19 demonstrations.

20 A. With regard to the academy lesson plans,
21 it would be included in there. It would also be --
22 I think I named them all. There were also lesson
23 plans for the teaching to the training sergeants on
24 those topics. There were training memos for that.
25 That would have been disseminated to the training

1 H. Perkins

2 sergeants. As far as the lesson plans, that's what
3 I can recall right now.

4 MR. STECKLOW: Let's mark some -- let's
5 mark this as 4.

6 (Plaintiffs' Exhibit 4, lesson plan,
7 2004-12, marked for identification.)

8 MR. STECKLOW: Let's mark this as 5. I'm
9 sorry. That's wrong.

10 Q. You're now looking at what's been marked
11 as Plaintiffs' Exhibit 4?

12 A. Yes.

13 Q. Have you seen this before?

14 A. Yes.

15 Q. Is this the lesson plan that was in place
16 between 2004 and 2012 for demonstrations?

17 A. No.

18 Q. At what point was this replaced?

19 A. This was replaced in 2004, I believe.

20 Q. What was it replaced by?

21 A. This was incorporated into the
22 maintaining public order.

23 Q. When was that done?

24 A. 2004.

25 Q. Was that before, during or after the

1 H. Perkins

2 Republican National Convention?

3 A. Before.

4 Q. Do you have an understanding as to why
5 this document was -- withdrawn.

6 Do you have an understanding as to why
7 this lesson plan was removed and incorporated into a
8 different lesson plan?

9 A. Yes.

10 Q. Can you tell us why?

11 A. Training was -- the training of recruits
12 was changed. Prior to that there were three
13 separate disciplines for recruits and they were
14 taught law separate from police procedure separate
15 from the social science aspect. The decision was
16 made that pedagogically it would be better to
17 combine all of those into a unified curriculum.

18 So, for example, rather than teaching
19 about the social science and social psychology
20 aspect of, say, domestic violence and then procedure
21 of domestic violence and then the law of domestic
22 which might come at different points in a recruit's
23 academy process because of how the different -- the
24 different things are balanced, the -- they were
25 consolidated together so that in training of

1 H. Perkins

2 recruits, they can have -- it's still the same
3 material but have a much fuller concept of what
4 they're doing and why they're doing it.

5 Q. Was the substance changed?

6 A. No.

7 Q. So, was the lesson plan incorporated into
8 maintaining public order without any substantive
9 changes?

10 A. All of the information in here was
11 incorporated in the unified curriculum.

12 Q. By the unified curriculum, do you mean
13 lesson plan for maintaining public order or
14 something else?

15 A. I believe it went into maintaining public
16 order. Unless I have the maintaining public order
17 to compare it to side by side, I can't state
18 absolutely. But the contents of this lesson plan
19 are covered in the -- were covered in the unified
20 curriculum.

21 So if it wasn't put into the maintaining
22 public order, it could have been put into another
23 portion of the -- of the curriculum. But all of
24 what is in here -- substantively everything that was
25 in here was put into the unified curriculum.

1 H. Perkins

2 Q. The maintaining public order lesson plan,
3 is that for recruits or is that for advanced comm,
4 for inservice training? What is it utilized for?

5 A. Recruits.

6 Q. This demonstration plan, is that for
7 recruits or for InTac, inservice or advanced
8 command?

9 A. Recruits.

10 Q. I'd like you to look at page 3 of the
11 demonstration lesson plan and look at what is 2-B.

12 A. Yes.

13 Q. Can you read what's underlined and
14 bolded?

15 A. Case law protects certain activities
16 under the First Amendment.

17 Q. Why was that included in this lesson
18 plan?

19 A. Why was the protection included in this
20 lesson plan?

21 Q. Why was that -- the words you just read,
22 why was that included in this lesson plan?

23 A. To explain to recruit officers that
24 certain activities are protected under the First
25 Amendment.

1 H. Perkins

2 Q. Above that under 2-A it lists the
3 protections of the First Amendment, correct?

4 A. Yes.

5 Q. And this talks about case law, correct?

6 A. Yes.

7 Q. Why did the NYPD include a topic about
8 how case law affects rights under the First
9 Amendment?

10 A. Because we explain to recruit officers
11 how the Constitution governs what they can and
12 cannot do and that if something is -- there's a
13 question of some act of a police officers or the
14 government that is a question of whether it was
15 constitutional, it will go through the courts and
16 that the result of the court's decision is case law
17 and that is binding on us as well as the
18 Constitution. It's not just our interpretation of
19 the Constitution but also the court's interpretation
20 of the Constitution.

21 Q. So, is this to explain to recruit
22 officers that the way the courts interpret the
23 Constitution affects the rights that are protected
24 thereunder?

25 A. It's not that it affects the rights, but

1

H. Perkins

2

it affects our -- it restricts or permits our action

3

as police officers based on what the court decides.

4

Q. So, how a court decides a case affects

5

how a police officer can police constitutional

6

activity?

7

A. Yes.

8

Q. Was that incorporated into the

9

maintaining public order lesson plan?

10

A. That is in introduction to law and

11

justice.

12

MR. STECKLOW: So, what I'd like to do

13

is -- we only have one copy of each of these so

14

I'm not going to have a copy in front of me.

15

Mark this as 5. These are two lesson plans for

16

maintaining public order that I believe are the

17

ones relevant in 2011 to 2012.

18

Q. I'd like you to review them and tell me

19

if those the ones in place in that time period.

20

(Plaintiffs' Exhibit 5, lesson plans

21

for 2011-12, marked for identification.)

22

Q. From looking at the front page of these

23

lesson plans, can you identify whether these are the

24

lesson plans in place during "Occupy Wall Street"

25

from September 2011 through the end of 2012?

1 H. Perkins

2 A. Yes.

3 Q. Thank you.

4 MR. STECKLOW: Let's mark this as 6.

5 (Plaintiffs' Exhibit 6, training
6 course catalogue, marked for
7 identification.)

8 Q. I ask you to look at what's been marked
9 as Plaintiffs' Exhibit 6.

10 MS. ROBINSON: She's reviewing Exhibit 5.

11 MR. STECKLOW: There's no question on
12 Exhibit 5.

13 Q. Sergeant, I have no more questions on
14 that exhibit. Can you please look at Exhibit 6?
15 Have you seen this document before?

16 A. Not this particular one.

17 Q. What is it that we're looking at?

18 A. It's the training course catalogue.

19 Q. And what is it about this one that is
20 distinguished from the ones that you have seen?

21 A. Well, this -- the date on this one is
22 September 10th -- I mean, September 2010. So, I
23 have not seen this particular training course
24 catalogue.

25 Q. Do you know if this was the training

1 H. Perkins

2 course catalogue in effect during "Occupy Wall
3 Street" 2011 to the end of 2012?

4 A. Yes.

5 Q. What is a training course catalogue?

6 A. It is a catalogue of all of the active
7 lesson plans that -- all of the active courses that
8 can be taught by the department.

9 Q. And where are the relevant training
10 subjects that we've discussed and identified in our
11 deposition notice taught within this document?
12 Where are they identified?

13 A. So, under the deputy commissioner of
14 training.

15 Q. What page is that?

16 A. Page 8.

17 Q. Is that VIII?

18 A. Yes.

19 Q. Okay.

20 A. The basic recruit course.

21 Q. Yes.

22 A. Is where the material is taught to
23 recruits.

24 Q. Okay.

25 A. As far as the lesson plan, the courses

1 H. Perkins

2 that are offered. The --

3 Q. Is there non-recruit training identified
4 in here --

5 A. Yes.

6 Q. -- in the relevant training subjects?

7 A. I'm looking through to see. The special
8 operations on page 3.

9 Q. On the document you're looking at, can
10 you identify a lesson plan on page 3 that is in the
11 relevant training subject?

12 A. So, the course that would be offered that
13 would cover demonstrations and street protest, is
14 that what you're --

15 Q. For the relevant training subjects.

16 A. All of the relevant training subjects?

17 Q. Yes.

18 A. Unusual disorder plan control may have
19 that. I don't have -- I'm --

20 Q. Is that a --

21 A. I'm not prepared to testify as to what
22 the lesson plans for the special operations because
23 that doesn't fall under the academy.

24 Q. So you can't testify that that actually
25 has training in the relevant training subjects,

1 H. Perkins

2 correct?

3 A. Correct.

4 Q. For the academy training --

5 A. Correct.

6 Q. And you identified the recruit training.

7 A. Correct.

8 Q. Now I'm asking you for non-recruit
9 training, which I understand is inservice or
10 advanced command or table top or other types of
11 training, is that identified in this training course
12 catalogue?

13 A. Not a course that has that specifically,
14 no.

15 Q. And this contains all of the courses that
16 the NYPD was giving as of September 2010, correct?

17 A. To differentiate between courses and
18 different types of training. So, command level
19 training is not considered a course that would have
20 been offered. Command level training is training
21 that comes up as issues develop and the training is
22 disseminated on a monthly basis.

23 Q. Who disseminates the command level
24 training?

25 A. Specialized training section.

1 H. Perkins

2 Q. Is that in the academy or outside the
3 academy?

4 A. That's in the academy.

5 Q. So the academy disseminates that
6 information?

7 A. Correct.

8 Q. And that information is not contained in
9 here?

10 A. Because it's not a course.

11 Q. But this contains all the training
12 courses given to recruits inservice, advance comm,
13 it doesn't give specialized training that maybe, as
14 you explained, come up in the course of incidents
15 that occur, some new topics that come up, otherwise
16 it does contain everything that taught by the NYPD
17 to all levels and all members of the service?

18 A. Yes.

19 Q. Other than what you identified which is
20 the recruit training on page 8, there is no other
21 training contained in here that is given in the
22 relevant training subjects, correct?

23 A. Not specific to the training subjects,
24 no.

25 Q. Does the training course catalogue

1 H. Perkins

2 contain training that is given to command level
3 officers?

4 A. Not all of it, no.

5 Q. But it does contain training that is
6 given to command level officers?

7 A. Yes.

8 Q. What classroom training is given by the
9 academy anywhere that is post recruit training?

10 A. Command level training, firearms
11 refresher course.

12 Q. That's the classroom training?

13 A. There are classroom components.

14 Q. Okay.

15 A. Depending on issues that arise. There
16 are post recruit driver trainings that are offered.
17 There are -- there is promotional training. At the
18 time in question there was leadership training.

19 Q. Was that distinct from promotional
20 training?

21 A. Correct. That leadership training, lead
22 training, was training provided to supervisors as
23 opposed to training for supervisors to step into
24 their new position. There were inservice tactical
25 trainings. There was also specialty tactical

1 H. Perkins

2 trainings. There were COBRA trainings, which is for
3 chemical, biological and other HAZMAT material
4 trainings. CPR training, the cardiopulmonary
5 resuscitation.

6 There's executive level training, which
7 is separate from lead or promotional because it's
8 training that's specific to the executives. I think
9 that covers it.

10 Q. Okay. Which of those trainings that you
11 just identified contain training in the relevant
12 training subjects?

13 A. Command level training and -- that's
14 specific that would be an item that would be in a
15 lesson plan would command level training.

16 Q. What lesson plans is that covered in for
17 command level training?

18 A. For command level training there was a
19 training memo on disorderly conduct. There was also
20 training on demonstrations and there was training on
21 legal issues surrounding the RNC.

22 Q. Okay. The training memo and dis con, was
23 that the Jones memo, if you know? Do you know what
24 I'm talking about?

25 MR. STECKLOW: Let's mark this as 7.

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H. Perkins

(Plaintiffs' Exhibit 7, December
2007 training memo, marked for
identification.)

A. Yes.

Q. So, how is this memo training at the
command level?

A. This memo would have been available and
sent out to -- at the time it was released, it would
have been sent out to all commands. So all commands
would have had a copy of it. At the command level
training either a member of the specialized training
section would have presented it or somebody from the
Legal Bureau would have presented it to the group.
They would have explained what it is and how to
disseminate the information to -- to -- at roll call
training. So, it would be a training trainer
situation.

Q. Okay. So was this something that was
also part of the training for the executive level
training?

A. This would have been as a training memo
would have been sent out to all commands.

Q. In December of 2007?

A. Correct.

1 H. Perkins

2 Q. What about in December of 2008?

3 A. The training memo would stand. So if
4 it's sent out, it stands as a training memo unless
5 it's revoked.

6 Q. Is it then incorporated into academy
7 training?

8 A. A training memo wouldn't be incorporated
9 into academy training. If there was a change or
10 some -- something that had come down to change from
11 how we had been training before, that would come
12 down from the Legal Bureau to the curriculum
13 evaluation and they would put that into the recruit
14 level training.

15 Q. Earlier we discussed, I believe, through
16 demonstration training that the police trained at
17 that point that case law affects how statutes are
18 interpreted and therefore how police can enforce
19 them, correct?

20 A. Yes.

21 Q. Is this one example --

22 A. Yes.

23 Q. -- of how that happens?

24 A. Yes.

25 Q. But because Legal Bureau did not send

1 H. Perkins

2 something to the curriculum unit, this didn't make
3 it into academy training?

4 A. This is how it's taught. So, I don't --
5 I'm not sure what you're -- what the question is.

6 Q. You have various lesson plans that you've
7 identified as related to the relevant training
8 subjects, correct?

9 A. Yes.

10 Q. This academy memo contains an update to
11 case law affecting how police can enforce disorderly
12 conduct statute, correct?

13 A. Yes.

14 Q. But this information contained in this
15 memo did not update any of the lesson plans that the
16 NYPD were instructing on at the academy, correct?

17 A. As far as updating -- did the People v.
18 Jones get put into the -- as labeled get put into
19 the material; is that what you're asking?

20 Q. No. I'm asking: Did the information
21 contained in here get updated into the lesson plans?

22 A. Yes.

23 Q. When?

24 A. It would have been -- I have to look to
25 see. If you can give me a moment to look at the

1 H. Perkins

2 lesson plan that, maintaining public order, because
3 I don't think it's necessarily in that one.

4 Q. Sure.

5 A. The lesson plan may not have reflected
6 it. No, the lesson plan doesn't reflect this
7 change.

8 Q. So the NYPD did not take the information
9 from this academy memo and put it in -- withdrawn.
10 I'll get a new question there.

11 The NYPD did not take the information
12 contained in this police academy training memo and
13 update their lesson plans with that information,
14 correct?

15 A. Correct.

16 Q. I just want to make sure that this was
17 clear. Are relevant training topics covered in
18 executive level training?

19 MS. ROBINSON: Objection. You can
20 answer.

21 A. Are relative -- I don't have specific
22 knowledge as to if the training topics were covered
23 in executive level training.

24 Q. Who conducts executive level training?

25 A. The executive level trainer -- executive

1 H. Perkins

2 training.

3 Q. Is that part of the academy?

4 A. Yes, it is.

5 Q. So, does the academy include any of the
6 relevant training subjects when it gives its
7 executive level training?

8 A. Not in the lesson plans that I have
9 reviewed for this.

10 Q. Does the academy provide -- withdrawn.
11 During the time frame we're speaking of,
12 2004 to 2012, did the academy provide the leadership
13 training that you discussed before?

14 A. Yes.

15 Q. Did the leadership training include
16 lesson plans that covered the relevant training
17 topics?

18 A. Specific to the relative training topics,
19 no.

20 Q. Does the academy provide the advanced
21 command level training?

22 A. Yes.

23 Q. Did the academy include specific lesson
24 plans on the relevant training subjects in the
25 advanced command level training?

1 H. Perkins

2 A. In command level training, yes.

3 Q. That is what we discussed already?

4 A. Training memo, RNC legal issues and a
5 demonstrations lesson plan.

6 Q. So I just want to make sure we're clear.
7 Command level training occurs at the commands,
8 correct, at the precincts?

9 A. Command level training is all of the
10 training sergeants and the training sergeants take
11 it out to the commands.

12 Q. Is that distinguished from advanced
13 command training or advanced command leadership
14 training?

15 A. So, leadership training is different from
16 command level training.

17 MR. STECKLOW: Let's mark this as 8.

18 (Plaintiffs' Exhibit 8, advanced
19 command training, marked for
20 identification.)

21 A. So, this is executive level training.

22 Q. Is that different than advanced command
23 training?

24 A. That's what they're calling it. It would
25 be what I was referring to as the executive.

1 H. Perkins

2 Q. So, was this the course outline that was
3 relevant during September 7, 2012?

4 MS. ROBINSON: Do you have a copy for me?

5 MR. STECKLOW: I don't.

6 MS. ROBINSON: Do you have a Bates-stamp
7 number?

8 MR. STECKLOW: 6098 through 6169.

9 A. This is the materials but this is not a
10 lesson plan.

11 Q. When you say these are the materials,
12 what does that mean?

13 A. These would be the materials that would
14 be provided to the executives.

15 Q. And then there would be materials in
16 addition to this that would be provided? Would
17 there be a lesson plan that would occur because of
18 these materials -- withdrawn.

19 You've testified these are the materials
20 provided to the executive levels during their
21 advanced command training?

22 A. Yes.

23 Q. And you think there's a lesson plan that
24 matches up to this?

25 A. They may have used the materials.

1 H. Perkins

2 MR. STECKLOW: This looks to be a
3 complete copy. I would not swear to it.
4 What's the last page there?

5 MS. ROBINSON: 6134.

6 MR. STECKLOW: It's just a few copies of
7 the same, so you may have three copies of the
8 same document there.

9 MS. ROBINSON: Oh, I see what you're
10 saying.

11 A. So, some of these would have been
12 provided to -- some of the materials are the
13 materials provided. Some of them are the
14 instructors' copies that they would use to go over.

15 Q. There are case studies included here?

16 A. Correct.

17 Q. And "Occupy Wall Street" is utilized as a
18 participant in the case study? If I can refer you
19 to page what's marked as 86152, it has a numerical
20 five on it but I don't think that's going to be
21 helpful by itself. Right before that. It's this
22 page.

23 A. Yes.

24 Q. Who chose to include "Occupy Wall Street"
25 in the case studies?

1 H. Perkins

2 A. Because this is a draft copy, it doesn't
3 have the name of the person who authorized this.
4 This is a draft copy as well.

5 Q. In the case study that utilizes "Occupy
6 Wall Street," it talks about "Occupy Wall Street"
7 having demonstrations in a precinct area, correct?

8 MS. ROBINSON: Do you have a Bates-stamp
9 number for that?

10 MR. STECKLOW: I think I said it earlier.
11 I think it's 6152.

12 MS. ROBINSON: Is this still Exhibit 8?

13 MR. STECKLOW: It is.

14 MS. ROBINSON: So then can you give me
15 the beginning and ending Bates-stamps?

16 (Off the record discussion.)

17 MR. STECKLOW: 6098 through 6169.

18 MS. ROBINSON: So how are we getting to
19 861 --

20 MR. STECKLOW: I did not read properly.

21 MS. ROBINSON: You're saying 6152?

22 MR. STECKLOW: Yeah.

23 MS. ROBINSON: Not an 8?

24 MR. STECKLOW: Yes. 6152.

25 A. So, what's the question?

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H. Perkins

Q. It identifies "Occupy Wall Street" as setting up common striations within a precinct area as part of the case study, correct?

A. Yes.

Q. And it states that they are doing both legal and illegal demonstrations, correct?

A. It's not that they are. It's saying with respect to demonstrations that are legal or demonstrations that are illegal.

Q. Well, but it's talking about "Occupy Wall Street," is it not?

A. It's "Occupy Wall Street" that there might be other -- there might be demonstrations or other events that are tied to the name "Occupy Wall Street," that's why it's saying local action tied to the larger -- the larger action that was occurring in the downtown Manhattan area, that there might be stuff that is tied to that. And talking about -- this is a very -- this is a instructor's note to talk about how to address demonstrations both legal and illegal.

Q. Does it identify how to distinguish between demonstrations that are legal and illegal?

A. Not on this piece of paper, no.

1 H. Perkins

2 Q. Within this lesson plan or this advanced
3 command training, does it identify that, how to
4 identify between legal and illegal demonstrations
5 that it's setting out an example for on that page?

6 A. It's not -- I don't see it spelled out,
7 but it also explains that the -- some portions have
8 yet to be established and that it's a work in
9 progress.

10 Q. I'd like you to take a look at page 6139,
11 XIV.

12 A. I don't have 6139. I have 6149, 6151,
13 53.

14 MR. STECKLOW: During a break, I'll print
15 out a complete copy for you and another one
16 we'll mark as a complete copy.

17 Q. For now I'll ask you to look at the one I
18 was looking at is 6149. I ask you to look at XIV.

19 Is that another case study that utilizes
20 "Occupy Wall Street" as an example?

21 A. It's not a case study so much as
22 referencing something that's happening in the 29
23 Precinct.

24 Q. Is it fictional or nonfictional?

25 A. Nonfictional.

1 H. Perkins

2 Q. So, this is a description that somebody
3 is inserting into the advanced command level
4 training of something that's occurring with "Occupy
5 Wall Street"?

6 A. Activities involved in the "Occupy Wall
7 Street" movement.

8 Q. Can you read out loud the highlighted
9 portion?

10 A. Activists involved in the "Occupy Wall
11 Street" movement have begun to build organizations
12 within the confines of the 29 Precinct taking on
13 causes such as police shootings of civilians,
14 perceived police areas in dealing with the public,
15 bias in the department's stop, question and frisk
16 policies and procedures, women's rights issues and
17 other related police issues. These organizations
18 have gained a foothold and are acquiring membership
19 quickly.

20 Q. So, is the reason that's included in here
21 is because those -- withdrawn.

22 Is the reason that's included in this
23 advanced command leadership training is because that
24 is seen as something that's going to require police
25 action, reaction, intervention or something else?

1 H. Perkins

2 A. It's understanding that the activists
3 involved in the "Occupy Wall Street" movement are
4 organizing within the confines of the precinct and
5 that they're organizing not just for what was
6 originally believed to be the "Occupy Wall Street"
7 reasons, which had to do with Wall Street, but that
8 there were additional -- additional causes that
9 activists involved with that movement were
10 addressing as well.

11 Q. Is there anything unlawful in the conduct
12 or activity they're describing there?

13 A. None whatsoever.

14 Q. So, what is the reason that that would be
15 included in advanced command leadership training?

16 A. To understand that these entities exist
17 within the command and that they are -- they're
18 organizing and have memberships which means there
19 may be activities that would necessitate police
20 presence.

21 Q. Where is the 29?

22 A. 29 is in upper Manhattan, Manhattan
23 North.

24 Q. What makes you believe that what is
25 written here is not a case study?

1 H. Perkins

2 A. Well, it is a specific situation that is
3 happening at a specific precinct. So by that
4 definition of case study, it could be considered a
5 case study.

6 Q. But how do you know that it's actually
7 happening or it's not something that somebody is
8 writing to utilize in advanced command training?

9 A. Because by specifying a precinct, they're
10 specifying information that has been given to them
11 to include.

12 Q. Do you have any independent knowledge
13 that this is actually a truthful depiction of
14 something going on in the 29 Precinct during the
15 time that's identified here rather than a case study
16 that's being created in order to advance the
17 leadership training?

18 A. I would have to review the document.

19 Q. So, you don't have a knowledge, as we sit
20 here, whether it's truthful or whether it's
21 something that's just been created for training?

22 A. Correct.

23 MS. ROBINSON: Objection. She said she
24 had to read the document.

25 Q. And your answer was?

1 H. Perkins

2 A. Without reading the document, I can't
3 state that it's truthful or not truthful.

4 Q. But you did state earlier that you
5 believed this was nonfiction, correct?

6 A. As I read that particular section there,
7 yes. But I haven't had the opportunity to look at
8 the entire document.

9 Q. So, I just ask you to keep this in mind
10 as you're testifying, that you need to testify from
11 your own knowledge on behalf of the City of New York
12 and not to make an assumption like you made in the
13 testimony you gave in this.

14 MS. ROBINSON: Objection.

15 Q. Why would the activity described therein
16 necessitate a police presence if there's nothing
17 illegal about the activities?

18 A. Because the police department is charged
19 with the safety of everybody in a precinct and if
20 there is a large gathering of people, it's incumbent
21 upon us to be aware of that and make sure that the
22 interests of the people gathering are balanced with
23 the interests of the people that would like to go
24 about their business in that area, to make sure that
25 the flow of traffic, both pedestrian and vehicular,

1 H. Perkins

2 is allowed, that there is -- that there isn't --
3 that there isn't something that's going to happen as
4 a problem.

5 Q. Where in the facts that you read does it
6 state that there's a large amount of people or any
7 of the other issues you just raised?

8 A. It doesn't say that.

9 Q. So, is there anything in these facts as
10 you read them that would indicate a requirement of a
11 large police presence or some sort of police
12 response to be prepared for?

13 A. Again, I would have to read the whole
14 document. I'm not sure to what this is referring.
15 And I'm not exactly sure what the question is that
16 you're asking.

17 Q. I was asking you to clarify your earlier
18 response because when I asked you what I thought was
19 a simple question, I thought you took a turn to
20 something that was not part of the question
21 whatsoever. So I was trying to bring you back to
22 the actual question I was asking. All right.

23 And the question I was asking was: This
24 seems to be a case study that somebody created
25 utilizing "Occupy Wall Street" as an example. This

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H. Perkins

case study is part of executive leadership training given to the higher-ups at the NYPD, correct?

A. Yes.

Q. And it seems to try and paint "Occupy Wall Street" in a negative way and I was trying to understand what the purpose of this was, and I don't think we're getting to that area. So I was asking you to explain why this would be included and I think the answer I got didn't really answer this information that's contained on the page but answered more generally what happens in large demonstrations and protests.

So if you can restrict the knowledge to what's written here, can you let me know, if you have a reason, why this was included in this executive level command training?

A. I don't know.

MS. ROBINSON: Objection. If you need to read the entire document to answer that question, you can do that.

MR. STECKLOW: I'm going to ask --

MS. ROBINSON: You're not giving her an opportunity to read the document?

MR. STECKLOW: I'm going to ask you not

1 H. Perkins

2 to give speaking objections. It's something
3 we've had many conversations about. You just
4 gave a very specific speaking objection. This
5 is the second time you've done that in this
6 deposition. We get along. I want this to be
7 collegial, but I'll ask you, if you want to
8 make an objection, please do but please don't
9 do it if you're leading the witness.

10 MS. ROBINSON: I would like to allow her
11 to read the entire document.

12 MR. STECKLOW: And I'll be happy to
13 provide it to her during lunch and she can read
14 it. We can talk more about it afterwards.

15 MS. ROBINSON: She can read it on the
16 record and on your time.

17 MR. STECKLOW: That's not going to
18 happen.

19 MS. ROBINSON: Then the objection stands.

20 Q. In which -- now I'd like to relate these
21 questions specifically to the non-recruit training.
22 So we're going to talk about the post recruit
23 training.

24 Is there a specific word we should use
25 that we're talking about everything that happens to

1 H. Perkins

2 the supervisor-type of training? Is it command
3 level -- withdrawn.

4 What terms should we use when we're
5 talking about the supervisor-type training, we're
6 talking about captains?

7 A. Executive.

8 Q. Executive. You have lectures concerning
9 First Amendment rights of protest related to
10 policing public assemblies, marches and
11 demonstrations in the executive level training?

12 A. I have to review my paperwork.

13 Q. What paperwork would you have to review?

14 A. I would have to review the lesson plans
15 that cover those topics.

16 Q. Earlier today we reviewed the deposition
17 notice and you stated you were prepared to testify
18 on these topics, correct?

19 A. Yes.

20 Q. Are you no longer prepared to testify on
21 this topic?

22 A. I need to refresh my recollections.

23 Q. Okay. I'm going to, unfortunately, have
24 to continue because today is the last day of
25 discovery. You're here. I was hoping you were

1 H. Perkins

2 going to be here months ago. Today is the day you
3 made it. Such as it is, we don't have many options
4 but to go through it. So if you don't have the
5 knowledge for this, then you're just going to have
6 to put that on the record.

7 A. Okay.

8 Q. So I'm going to ask the question again so
9 we can get the answer.

10 Do you have lectures for the executive
11 level training that involve policing public
12 assemblies, marches or demonstrations?

13 A. I don't know.

14 Q. Do you have lectures at the executive
15 level training that involve the constitutional right
16 of individuals and/or groups to protests on
17 sidewalks?

18 A. I don't know.

19 Q. Do you have executive level training --
20 withdrawn.

21 Can you identify executive level training
22 concerning the arresting protesters engaged in First
23 Amendment speech activity?

24 A. I don't know.

25 Q. So, if I'm asking if you can identify,

1 H. Perkins

2 now it comes into more of a yes-no question. That's
3 why I was given a note to change the way I was
4 asking the question.

5 A. Okay.

6 Q. Can you identify lectures that you have
7 at the executive level training for policing public
8 assemblies, marches or demonstrations?

9 A. If you show me something, can I identify
10 if that would have been a lecture? Is that the
11 question you're asking?

12 Q. I'm asking if you, as you sit here, can
13 identify it for us?

14 A. I don't know if it exists so I can't
15 identify it.

16 Q. Can you identify whether the city has
17 lectures at the executive level training under
18 constitutional right of individuals and/or groups of
19 individuals to protest on sidewalks?

20 A. I don't know.

21 Q. Can you identify lectures on the First
22 Amendment principles taught at executive level
23 training as they concern policing public assemblies,
24 demonstrations or protests?

25 A. Cannot identify.

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H. Perkins

Q. Can you identify training given at the executive level for the topic of application of a disorderly conduct statute in the context of the First and Fourth Amendment rights of protesters?

A. I don't know.

Q. Can you identify training given at the executive level training on the meaning and proper enforcement of Penal Law 240.20 Subsection 5?

A. I don't know.

Q. Can you identify training at the executive level that is provided on the meaning and proper enforcement of Penal Law 240.20 Sub 6?

A. I don't know.

Q. Can you identify training given at the executive level on the meaning and proper enforcement of Penal Law 195.05 obstruction of governmental administration of justice?

A. I don't know.

Q. One of the relevant training subjects that we were reviewing earlier concerned paragraph 69 of the complaint. Now I'm going to go through the topics that are in that paragraph.

Can you identify training given at the executive level for the standard in disorderly

1 H. Perkins

2 conduct for the mere inconveniencing of pedestrians?

3 A. I don't know.

4 Q. Can you identify trainings given at the
5 executive level that when a person is engaged in
6 political or expressive speak activity the First
7 Amendment of the Constitution requires that the
8 government, including the police, give fair warning
9 to protesters that they must disperse before
10 arresting them?

11 A. I don't know.

12 Q. Can you identify training given at the
13 executive level that if a person's conduct does not
14 cause or recklessly threaten to cause a substantial
15 impact on the public at large, such as a breach of
16 the peace, then there is no probable cause for an
17 arrest for disorderly conduct?

18 A. I don't know.

19 Q. Can you identify any training given at
20 the executive level that a person may only be
21 subject to arrest if there is individualized
22 probable cause to believe that the particular
23 individual committed an offense?

24 MS. ROBINSON: Objection. I'm going to
25 object to all of these questions as they are

1 H. Perkins

2 part of the legal positions adopted or
3 implemented which have already been deleted by
4 the court.

5 MR. STECKLOW: They're not. They're part
6 of paragraph 69.

7 MS. ROBINSON: They were deleted by the
8 court. Those were specifically deleted by
9 Judge Aaron. So I'm objecting.

10 MR. STECKLOW: Paragraph 69 is not
11 deleted.

12 MS. ROBINSON: No. The legal principles
13 were deleted and I'm objecting and directing
14 you not to answer.

15 MR. STECKLOW: Paragraph 69 is part of
16 the relevant training subject material. That
17 was not deleted.

18 MS. ROBINSON: I'm objecting and
19 directing you not to answer is the final word.

20 Q. I'm going to go through the rest of them,
21 so your attorney will make an objection and instruct
22 you not to answer and then we can get a ruling from
23 the court.

24 Can you identify in an executive level
25 training where it teaches that the police may not

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H. Perkins

disperse a protest without having a lawful reason to do so?

MS. ROBINSON: Objection. Beyond the scope according to Judge Aaron's order.

Q. She's not instructing you not to answer.

MS. ROBINSON: And I instruct you not to answer.

Q. Can you identify executive level training that provides a lesson that a civilian breaks the law by refusing to obey an unlawful order to disperse?

MS. ROBINSON: Objection to the not to order on the basis -- not to answer on the basis of Judge Aaron's order.

Q. Can you identify an executive level lesson that provides to executives that a civilian cannot be arrested for obstructing -- withdrawn. I'll do it again.

Can you identify an executive level training where there is a lesson that provides a civilian cannot be arrested for obstructing governmental administration for refusing to obey an unlawful order to disperse?

MS. ROBINSON: Objection. I'm directing

1 H. Perkins

2 the witness not to answer, beyond the scope as
3 per Judge Aaron's order.

4 Q. Can you identify at executive level
5 training a lesson that provides it is unlawful to
6 arrest a protester for disorderly conduct unless the
7 protester is creating a clear and present danger of
8 breach of the peace?

9 MS. ROBINSON: Objection. I'm directing
10 the witness not to answer, beyond the scope as
11 per Judge Aaron's order.

12 Q. Can you identify anywhere in the
13 executive training a lesson that provides where the
14 municipality and/or the police seek to regulate
15 time, place or manner of public protest, a protester
16 must provide an adequate form for their expression?

17 MS. ROBINSON: Objection. Direct the
18 witness not to answer, beyond the scope as per
19 Judge Aaron's order.

20 Q. Can you explain the training that was
21 given to executive level officers on dispersal
22 orders?

23 A. Repeat the question, please.

24 Q. Can you identify at the executive level
25 any training that was provided on dispersal orders?

1 H. Perkins

2 MS. ROBINSON: You can answer.

3 A. I don't know.

4 Q. Can you identify any training that was
5 given to the -- withdrawn.

6 Can you identify any executive level
7 training that provided lessons on alternative forums
8 for protest?

9 A. I don't know.

10 Q. Can you identify executive level training
11 that was given on time, place and manner
12 restrictions on protest activity?

13 A. I don't know.

14 Q. Can you identify training that was
15 provided to executive level on the standards of
16 applying disorderly conduct of protests?

17 A. I don't know.

18 Q. Can you identify training that was
19 provided on lessons concerning impeding pedestrian
20 traffic at protests?

21 A. Yes. Impeding pedestrian would have been
22 the RNC legal issues training, the demonstrations
23 training in 2004.

24 Q. Was that training provided any time after
25 2004?

1 H. Perkins

2 A. No.

3 Q. Was the information that was provided at
4 those trainings incorporated into any lesson plans?

5 A. The information that's included in those
6 trainings are in the lesson plans and student
7 materials for all recruits.

8 Q. Is it in any training for executive level
9 training?

10 A. I don't know.

11 Q. Can you identify the executive level
12 training that provides the standards of substantial
13 blockage of sidewalks during protest activity?

14 A. I don't know.

15 MR. STECKLOW: Let's just take a
16 two-minute break.

17 (A recess was taken from 12:10 p.m. to
18 12:24 p.m.)

19 MR. STECKLOW: The time is now 12:24 and
20 we're back on the record. We're still at my
21 office at 217 Centre Street with all the same
22 players. Nobody else has entered and nobody
23 else has left.

24 Q. Is InTac training another word for
25 inservice training or is it a smaller component of

1 H. Perkins

2 inservice training?

3 A. It's a smaller component of inservice
4 training.

5 Q. Is InTac or inservice training for
6 executive level, for nonexecutive level or for all
7 MOS?

8 A. InTac training is for nonexecutive.

9 Q. When we're talking about executive level,
10 is that captains and above?

11 A. Yes.

12 Q. Are lieutenants considered executive or
13 are they considered not executive?

14 A. Not executive.

15 Q. Are white shirt officers only executive
16 level or are lieutenants also white shirt officers
17 even though they're not executive level?

18 A. White shirts are not executive level
19 officers.

20 Q. So, a captain wouldn't wear a white
21 shirt?

22 A. A captain does wear a white shirt.
23 Everybody above the rank of lieutenant wears a white
24 shirt. For a short period of time in, I think,
25 maybe, 1999 sergeants wore white shirts for maybe

1 H. Perkins

2 two months. But sergeants now wear blue shirts,
3 dark blue as cops. Lieutenants wear white shirts.
4 But executives are captains and above.

5 Q. Do executives take InTac training?

6 A. No.

7 Q. And I guess I should say did they take it
8 because, from what I understand, it's no longer a
9 part of the training?

10 A. No.

11 Q. Did executives take inservice training?

12 A. Was there training for executives after
13 promotion? Is that the question?

14 Q. I'm trying to use the term that I thought
15 was applicable, that there's academy training for
16 recruits and then pretty much everything after the
17 academy is deemed inservice training?

18 A. Yes.

19 Q. Is that accurate?

20 A. Yes.

21 Q. And we went through earlier today the
22 executive level training, correct?

23 A. Yes.

24 Q. Is there any other inservice training for
25 executives that exists other than the executive

1 H. Perkins

2 level training?

3 A. Executives go to the range for
4 qualification, the firearms qualification twice a
5 year. The -- there are trainings at Floyd Bennett
6 Field for different kinds of vehicle operations that
7 are -- that are accessible by executives. There are
8 other trainings that are accessible to executives
9 but that are not specifically offered to them.

10 Q. Okay. If we restrict that to the
11 relevant training subjects, is there any training
12 that exists in the 2004 to 2012 time frame for
13 executive level officers that was not part of the
14 executive level training we discussed earlier?

15 A. No.

16 Q. One thing, I think we cleaned this up
17 earlier, but my co-counsel does not agree.

18 The officers that wear the white
19 shirts -- not for that one time in '99 when the
20 sergeants wore it -- are captains and above?

21 A. No. Lieutenants and above wear white
22 shirts. Captains and above are executives.

23 Q. Who has the scrambled eggs on their hats?

24 A. There are different types of rank
25 insignia, but the rank insignia that has some sort

1 H. Perkins

2 of stitching on the cap is for executives.

3 Q. So, that would be captains and above?

4 A. Yes.

5 Q. And is there a different term because I
6 was always told they refer to it as scrambled eggs?

7 A. Depends on the rank. It's the rank
8 insignia. Scrambled eggs is a colloquial term just
9 like calling somebody a white shirt. That's not a
10 specific term. It's a colloquial term.

11 Q. Understood. But all of the executive
12 levels have the same insignia on their caps? It's
13 not a distinctive insignia for a captain as opposed
14 to an inspector or a chief?

15 A. There are different rank insignias for
16 each rank. There are subtle changes on the uniform;
17 the width of a braid on their leg, the number of
18 braids on the arm. There are a number of different
19 subtle differences in rank insignia that wouldn't be
20 obvious to the lay person, but would be able to be
21 identified by personnel.

22 Q. So I had asked about the hat and the hat
23 alone. So I'll repeat the question so I'm just
24 trying to understand that.

25 A. Okay.

1 H. Perkins

2 Q. Do all executive level officers have the
3 same insignias on their hats as each other or is
4 there distinctions in that?

5 A. There's not distinctions in that.

6 Q. Thank you. Do -- withdrawn.

7 Are there Legal Bureau trainings at the
8 academy?

9 A. Are there -- you have to be more
10 specific.

11 Q. Do members of the NYPD Legal Bureau ever
12 assist in any trainings at the police academy?

13 A. Yes.

14 Q. Do members of the NYPD Legal Bureau ever
15 assist in any training with police academy members
16 that are not held at the police academy?

17 A. Yes.

18 Q. Do these trainings occur within the
19 relevant training subjects?

20 A. The ones at the police academy or the
21 ones not at the police academy?

22 Q. Let's first take the ones at the police
23 academy.

24 A. Do they participate -- have they
25 participated or do they participate?

1 H. Perkins

2 Q. In the time of 2004 to 2012 did they
3 participate in trainings that involved the relevant
4 training subjects at the --

5 A. Yes.

6 Q. -- police academy?

7 Did they participate in the training of
8 relevant training subjects outside of the police
9 academy?

10 MS. ROBINSON: Objection. Beyond the
11 scope. You can answer if you know.

12 A. I don't know.

13 Q. You testified earlier that there are
14 times that police academy and Legal Bureau trainings
15 occur outside the academy, correct?

16 A. Yes.

17 Q. In those times, did they relate to the
18 relevant training subjects?

19 A. I don't know.

20 Q. Can you -- withdrawn.

21 When the Legal Bureau attorneys did
22 trainings at the academy, was that for all levels of
23 MOS?

24 A. The -- you had asked about the Legal
25 Bureau, not about Legal Bureau attorneys. There are

1 H. Perkins

2 people that work at the Legal Bureau that aren't
3 attorneys.

4 Q. Correct. I'm not concerned if they're
5 training attorneys or not attorneys. Just that
6 there are Legal Bureau people coming and doing
7 training at the academy. I'm trying to make sure I
8 ask all sorts of questions to make sure I'm not
9 missing any piece of the puzzle.

10 A. Okay.

11 Q. And at the end I'm going to ask you if I
12 missed any piece of the puzzle as far as trainings
13 in the relevant training subjects. Right now I'm
14 asking if the training that was given by Legal
15 Bureau at the academy was for all MOS.

16 A. The Legal Bureau trained the police
17 academy personnel that presented training.

18 Q. So, did the Legal Bureau ever train MOS
19 other than those who were instructors or people who
20 were to become instructors at the academy?

21 A. Not that I know of.

22 Q. Did the Legal Bureau ever assist or
23 conduct training at the academy for executive level
24 training?

25 A. I don't know.

1 H. Perkins

2 Q. Can you identify any executive level
3 training that included the Legal Bureau at the
4 academy in any relevant training subject?

5 A. No.

6 Q. Can you identify any training that
7 occurred between the academy and the Legal Bureau
8 outside the academy for executive level training on
9 the relevant training subjects?

10 A. No.

11 MR. STECKLOW: Off the record.

12 (Discussion held off the record.)

13 (A recess was taken from 12:35 p.m. to
14 1:45 p.m.)

15 MR. STECKLOW: The time is now 1:46. We
16 are back on the record. We're at my office at
17 217 Centre Street with the continued deposition
18 of the City of New York by Sergeant Heather
19 Perkins.

20 Q. Good afternoon, Sergeant.

21 A. Good afternoon.

22 Q. Does the NYPD use any video in training
23 in the relevant training subjects either at the
24 academy or for recruit training or for executive
25 level training?

1 H. Perkins

2 A. Yes.

3 Q. For recruit training, what videos are
4 used in the relevant training subjects?

5 A. For the time period in question for the
6 relevant training subjects --

7 Q. I think that would be Exhibit 2.

8 (Discussion held off the record.)

9 MS. ROBINSON: She's not testifying to
10 anything outside of the scope of what I gave
11 her so...

12 MR. STECKLOW: I think she's testifying
13 as to everything that's in here in these
14 relevant training subjects.

15 MS. ROBINSON: G, H and I were -- take a
16 look. It's fine. You can leave them in.

17 A. No videos on those topics, no.

18 Q. Were there any videos used in training at
19 the executive training level in the relevant
20 training subjects?

21 A. Not on those topics, no.

22 Q. Are there any videos used in recruit
23 training related to the First Amendment?

24 A. No.

25 Q. Are there any videos used at the

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executive level training related to the First
Amendment?

A. No.

Q. Are you familiar with a lawsuit where the
lead plaintiff's name was Sarah Kunstler against the
City of New York?

A. No.

Q. Arising out of a sidewalk protest in
2003?

A. No.

Q. Do you know that this was a \$2 million
settlement in that lawsuit, Kunstler versus the City
of New York?

A. No.

MS. ROBINSON: Objection. Outside the
scope. You can answer.

A. No.

Q. Do you know -- withdrawn.

Can you identify whether the NYPD updated
its lesson plans due to the allegations of the
Kunstler lawsuit regarding the policing of sidewalk
protest?

MS. ROBINSON: Objection. Outside the
scope.

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H. Perkins

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A. No.

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Q. Can you identify whether the City of New York updated its lesson plan due to the allegations of the Kunstler lawsuit regarding the determination of substantial blockage of a sidewalk?

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A. No.

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Q. Can you identify whether the City of New York updated any lesson plan due to the allegations in the Kunstler lawsuit regarding the analysis of whether a pedestrian was impeded or merely inconvenienced?

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14

MS. ROBINSON: Objection. Outside the scope. You can answer.

15

A. No.

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Q. Can you identify if the City of New York updated any lesson plan due to the allegation of the Kunstler lawsuit regarding -- withdrawn.

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Did the policing that was complained about in the Kunstler lawsuit comport with the proper training at the NYPD?

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MS. ROBINSON: Objection. Outside the scope. You can answer.

24

A. I don't know.

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Q. Did the City of New York update its --

1 H. Perkins

2 withdrawn.

3 Can you identify any lesson plan that was
4 updated due to the settlement reached in the
5 Kunstler lawsuit regarding the policing of sidewalk
6 protest?

7 MS. ROBINSON: Objection. Outside the
8 scope. You can answer.

9 A. I don't know.

10 Q. Did the City of New York update its
11 lesson plan due to the settlement reached in the
12 Kunstler lawsuit regarding the determination of
13 substantial blockage of a sidewalk?

14 MS. ROBINSON: Objection. Outside the
15 scope. You can answer.

16 A. I don't know.

17 Q. Did the City of New York update its
18 lesson plan due to the settlement reached in the
19 Kunstler lawsuit regarding the analysis of whether a
20 pedestrian was impeded or merely inconvenienced
21 during a sidewalk protest?

22 MS. ROBINSON: Objection. Outside the
23 scope. You can answer.

24 A. I don't know.

25 Q. Can you identify whether the policing

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that was complained about in the Kunstler lawsuit
comported with proper training given at the recruit
level at the academy?

MS. ROBINSON: Objection. Outside the
scope.

A. I don't know.

Q. Can you identify if the policing that was
complained about in the Kunstler lawsuit comported
with proper training given after the recruit
training?

MS. ROBINSON: Same objection.

A. I don't know.

Q. Can you identify whether the City of New
York utilized the policing that was sued upon in the
Kunstler litigation to update any curriculum, lesson
or class?

MS. ROBINSON: Same objection.

A. I don't know.

Q. Can you identify whether the City of New
York examined the allegation of the Kunstler lawsuit
regarding the policing of sidewalk protest and
updated the training in the curriculum, lessons or
classes?

MS. ROBINSON: Same objection.

1 H. Perkins

2 A. I don't know.

3 Q. Can you identify whether the City of New
4 York examined the allegations of the Kunstler
5 lawsuit regarding the policing of sidewalk protest
6 and updated the training in the curriculum, lesson
7 or classes regarding the policing of sidewalk
8 protest without substantial impence or blockage of
9 pedestrian traffic?

10 MS. ROBINSON: Same objection.

11 A. I don't know.

12 Q. Are you familiar with the various
13 lawsuits arising out of the arrest of protesters at
14 the Republican National Convention in 2004?

15 MS. ROBINSON: You can answer.

16 A. Are you asking am I familiar with the
17 lawsuits themselves or familiar with the fact that
18 there were lawsuits?

19 Q. The latter.

20 A. I'm familiar with the fact that there
21 were lawsuits, yes.

22 Q. Are you familiar with the fact that the
23 City of New York tendered an \$18 million settlement
24 on these various lawsuits?

25 MS. ROBINSON: Objection. Outside the

1 H. Perkins

2 scope. I'm directing you not to answer.

3 Q. Can you identify whether the City of New
4 York updated its lesson plan due to the allegations
5 underlying the various lawsuits from the arrests at
6 the Republican National Convention in New York City
7 in 2004?

8 MS. ROBINSON: Objection. Same
9 objection. You can answer.

10 A. I don't know.

11 Q. Can you identify whether the City of New
12 York updated any lesson plan due to the allegations
13 underlying the Republican National Convention
14 lawsuits regarding the policing of sidewalk
15 protests?

16 MS. ROBINSON: Same objection.

17 A. I don't know.

18 Q. Did the City of New York update its
19 lesson plan due to the allegations underlying the
20 Republican National Conventional allegations
21 regarding the determination of substantial blockage
22 of a sidewalk?

23 MS. ROBINSON: Same objection. You can
24 answer.

25 A. I don't know.

1 H. Perkins

2 Q. Did the City of New York update --
3 withdrawn.

4 Can you identify whether the City of New
5 York updated its lesson plan due to the allegations
6 underlying the Republican National Convention
7 litigations regarding the analysis of whether a
8 pedestrian was impeded or merely inconvenienced
9 during the sidewalk protest?

10 MS. ROBINSON: Same objection.

11 A. I don't know.

12 Q. Did the policing that was complained
13 about in the RNC litigations comport with proper
14 training given at the academy for recruits?

15 MS. ROBINSON: Same objection.

16 A. I don't know.

17 Q. Did the policing that was complained
18 about in the RNC litigations comport with proper
19 training given at the executive level?

20 MS. ROBINSON: Same objection.

21 A. I don't know.

22 Q. Did the City of New York update its
23 lesson plan due to the settlement reached in the
24 Republican National Convention litigation regarding
25 sidewalk protests?

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MS. ROBINSON: Objection. Outside the scope. I'm directing her not to answer.

MR. STECKLOW: Off the record.

(Discussion held off the record.)

MR. STECKLOW: We're back on the record. We've just had an off the record conversation discussing the scope of the testimony today and I believe Ms. Robinson is going to make a statement for the record.

MS. ROBINSON: With respect to cases that are listed in Plaintiffs' Exhibit D-2 to the 30(b)(6) deposition notice, it is defendant's position that -- defendant's position that it has already provided a 30(b)(6) witness who has testified that the NYPD did not change its policies and practices with respect to filed lawsuits and settled litigation.

So, I've directed this witness, Sgt. Perkins, not to answer questions with respect to NYPD's policies and practices with respect to settled litigation and filed lawsuits.

MR. STECKLOW: With regard to updating any training because the city's position is it does not update training based on settled

1 H. Perkins

2 lawsuits or filed lawsuits, correct?

3 MS. ROBINSON: Correct.

4 MR. STECKLOW: Okay. I'm going to mark,
5 just so we can be clear, D-2, just so we have
6 that in this deposition as an exhibit and we
7 can move on.

8 Let's mark this as 9.

9 (Plaintiffs' Exhibit 9, D-2, marked
10 for identification.)

11 MR. STECKLOW: We've just marked as
12 Exhibit 9 the aforementioned D-2 that Ms.
13 Robinson has identified in her statement.
14 Correct?

15 MS. ROBINSON: Correct.

16 Q. Are you familiar with the August 31st,
17 2004 Fulton Street sidewalk protest?

18 A. No.

19 Q. Are you familiar with the summary
20 judgment decision issued by Judge Richard Sullivan
21 in favor of the protesters' claim that the arrests
22 violated their constitutional rights of public
23 protest?

24 A. No.

25 Q. Are you familiar with the fact that some

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H. Perkins

of these plaintiffs went to trial and were awarded
punitive damages against a supervising member of the
NYPD?

MS. ROBINSON: Objection. It's outside
the scope. It's the same issue with Exhibit
D-2. I'm directing her not to answer.

MR. STECKLOW: You had said for D-2.
This is why I skipped another one and came to
this one specifically that is filed --

MS. ROBINSON: This case is not in here.

MR. STECKLOW: It is there. But what you
said was the City of New York and the NYPD does
not update its training based on filed lawsuits
or settled lawsuits. Now I'm asking about a
summary judgment decision by a federal judge.
So, it's a distinct area. If it's the same
answer, please put it on the record and I'll
move on.

MS. ROBINSON: Okay. I'll allow it.

Q. Are you familiar with the fact that these
plaintiffs sought at trial and were awarded punitive
damages against a supervising member of the NYPD?

A. No.

MS. ROBINSON: Objection. You can

1 H. Perkins

2 answer.

3 A. No.

4 Q. Did the City of New York update its
5 lesson plans due to the summary judgment decision
6 issued by Judge Richard Sullivan in favor of the
7 protesters falsely arrested on 8/31/04 that found a
8 violation of their constitutional rights?

9 MS. ROBINSON: Objection. You can
10 answer.

11 A. I don't know.

12 Q. Did the City of New York update any
13 lesson plan regarding sidewalk protests due to the
14 summary judgment decision issued by Richard Sullivan
15 in favor of the protesters falsely arrested on
16 8/31/04?

17 MS. ROBINSON: Objection. You can
18 answer.

19 A. I don't know.

20 Q. Did the City of New York update any
21 lesson plan regarding the determination of
22 substantial blockage of a sidewalk due to the
23 summary judgment decision issued by Richard
24 Sullivan -- withdrawn -- by Judge Richard
25 Sullivan -- I'll start over.

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H. Perkins

Did the City of New York update its lesson plan regarding a determination of substantial blockage of a sidewalk due to the summary judgment decision issued by Judge Richard Sullivan in favor the protesters falsely arrested on 8/31/04?

MS. ROBINSON: Same objection. You can answer.

A. I don't know.

MR. STECKLOW: Can you put the actual objection on, though, because I think at this point I'm confused what the same objection is for this one.

MS. ROBINSON: Objection. It's outside the scope. You can answer.

A. I don't know.

Q. Thank you.

Did the City of New York update its lesson plan regarding the analysis of whether a pedestrian was impeded or merely inconvenienced due to the summary judgment decision issued by Judge Richard Sullivan in favor of the protesters falsely arrested on 8/31/04?

MS. ROBINSON: Objection. You can answer.

1 H. Perkins

2 A. I don't know.

3 Q. Did the policing and arrest of the
4 8/31/04 Fulton protesters that was ruled to be
5 unconstitutional by Judge Richard Sullivan comport
6 with proper training given after the recruit level
7 for policing sidewalk protest?

8 MS. ROBINSON: You can answer.

9 A. I don't know.

10 Q. Did the City of New York utilize the
11 policing that led to the false arrests on 8/31/04 to
12 update curriculum lessons or classes?

13 A. Repeat the question, please.

14 Q. Did the City of New York utilize the
15 policing that led to false arrests on 8/31/04 at
16 Fulton Street to update curriculum, lessons or
17 classes?

18 A. I don't know.

19 Q. Did the City of New York examine the
20 decision issued by Judge Sullivan regarding the
21 8/31/04 Fulton Street arrest to update the training
22 in the curriculum, lesson or classes regarding the
23 policing of sidewalk protest?

24 MS. ROBINSON: Objection. Outside the
25 scope. You can answer.

1 H. Perkins

2 A. I don't know.

3 Q. Earlier you testified that among the
4 videos you watched was a Bronx video, correct?

5 A. That's correct.

6 Q. I'm going to show you a few snippets of a
7 Bronx video and see if it's the same one you watched
8 and then we can ask some questions about it.

9 A. Okay.

10 MR. STECKLOW: We're about to watch a
11 video that I'm going to identify with the name
12 of "Occupy the Bronx street visuals, blog
13 videographer, dated 12/3/2011."

14 (Video played.)

15 Q. If at any time you're watching it you can
16 identify it is the video you saw --

17 A. That is the video.

18 Q. Are you familiar with this video?

19 A. Yes.

20 Q. When was the last time you watched it?

21 A. In August.

22 Q. It's still familiar to you?

23 A. Yes.

24 Q. Did the policing of the sidewalk protest
25 that you could see in this video comport with the

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H. Perkins

training given at the academy for recruits?

A. I can't say if it does or does not because I don't see the entirety -- the entirety of the episode is not caught on video.

Q. I'm asking about what you can see in the video, so I'll ask the question again. But try to keep your answer framed on that.

A. Okay.

Q. This is approximately a 10- to 12-minute video. In the beginning there's no arrest and about five or six minutes into the video there's the first arrest.

A. Mm-hmm.

Q. So, I'm asking: In that time frame did the policing of the sidewalk protest comport with the training given at the academy for recruits?

A. Up to the time of the arrests, including -- the -- there was nothing to indicate that they were not policing according to their training, but without the information as to what led for the police officers to be there, I can't make any definitive statement as to whether or not it was or was not.

Q. When you say led the police to be at the

1 H. Perkins

2 location --

3 A. Correct.

4 Q. -- or led the police to make the arrests?

5 A. Led the police to be at the location and
6 then make the decision to arrest. I don't know what
7 happened before so I can't -- I don't have all of
8 the information.

9 Q. I'm going to ask the same question now
10 for the executive level. I'm sure you'll have a
11 similar answer.

12 Did the policing of this sidewalk protest
13 comport with the training given to executive level
14 officers?

15 A. There's nothing in the video that does
16 not comport. I can't speak definitively on whether
17 it does because I don't know what happened before
18 the time the video started.

19 Q. You saw within the video multiple arrests
20 occurred, correct?

21 A. Correct.

22 Q. Did those arrests comport with the
23 training given for executive level officers
24 regarding disorderly conduct?

25 A. I don't know what led up to -- what

1 H. Perkins

2 happened before the start of the video, so I can't
3 say definitively if it did or it didn't. From what
4 was observed, the behavior, the actions of the
5 police officers were not outside of what they were
6 taught based on what was observed. However, not
7 knowing what happened before the video started, I
8 can't speak definitively as to the full incident.

9 Q. From the video you could see --

10 A. Mm-hmm.

11 Q. -- did the arrests of these individuals
12 comport with the training given to executive level
13 officers on disorderly conduct?

14 A. I don't know. I can't speak from -- I
15 can't say because the video is not the full
16 incident.

17 Q. From what you can see in the video, did
18 you believe that the arrests comported with the
19 training given to executive level officers of the
20 NYPD?

21 MS. ROBINSON: Objection. You can answer
22 again.

23 A. The -- there is nothing in the videos
24 that do not comfort, but because I don't know the
25 circumstances that led to the arrest, the total

1 H. Perkins

2 circumstances that led to the arrest, I can't say if
3 it did or did not.

4 Q. When the video first began, was anybody
5 under arrest?

6 A. Not that I could see in the video.

7 Q. When the video first began, was there any
8 conduct that you could see in the beginning of the
9 video that would lead you to believe that somebody
10 was committing disorderly conduct?

11 A. I don't know what was happening prior,
12 what those individuals were doing prior to the time
13 the video started, so I can't say if what they were
14 doing, if it was an ongoing incident. I don't know
15 what the beginning of the incident is, so I can't
16 say if it was -- I can't speak to that.

17 Q. I'm not asking you to speak to anything
18 before. We already established that when the video
19 starts, nobody is under arrest, correct?

20 A. But it starts in the middle of the
21 incident.

22 Q. That's your testimony. That's not
23 necessarily a fact. When the video starts, there's
24 nobody under arrest, correct?

25 A. Correct.

1 H. Perkins

2 Q. And we watched at least five minutes of
3 interaction between protester and police and don't
4 see any arrest, correct?

5 A. Correct.

6 Q. Do we see any conduct in that time frame
7 that would give you an understanding of why somebody
8 would be arrested for disorderly conduct?

9 MS. ROBINSON: Objection. You can
10 answer.

11 A. I don't know why the police were
12 addressing those individuals to begin with, so I
13 don't know what conduct they had engaged in prior to
14 the video. So if the conduct they had engaged in
15 prior to the video was somehow connected with what
16 we see on the video, I don't know.

17 Q. What do you see on the video that could
18 be connected to something prior that would give
19 these officers reason to arrest those people for
20 disorderly conduct?

21 MS. ROBINSON: Objection.

22 A. Are you asking me to speculate?

23 Q. You're testifying that you can see for
24 five minutes conduct. You can see protester
25 conduct, you can see police conduct.

1 H. Perkins

2 A. Yes.

3 Q. And then you're saying but I don't know
4 if by watching this there's probable cause to make
5 an arrest for disorderly conduct because I have no
6 idea what interactions happened before.

7 A. Correct.

8 Q. So I'm asking you what interactions could
9 have occurred before this video began that would
10 allow for probable cause five minutes into the video
11 for blocking the sidewalk?

12 A. So you're asking me to guess what
13 happened before?

14 Q. Do you know?

15 A. I don't know.

16 Q. So I'm actually asking you not to guess.
17 I'm asking you to answer based on what you can see.
18 But you're not answering based on what you can see.
19 You continuously tell me you can't answer based on
20 what you can see because of what might have happened
21 before. I don't want you to guess. I want you to
22 base on what you can see in the video.

23 And I'm asking you specifically: From
24 what you can see in the video for the five minutes
25 or so before somebody is arrested, do you see

1 H. Perkins

2 conduct that gives rise to a disorderly conduct
3 violation?

4 MS. ROBINSON: Objection. You can
5 answer.

6 A. If that conduct is somehow connected to
7 conduct prior to the video starting, then there
8 could be probable cause.

9 Q. Okay. So which conduct could you see in
10 the video that could have been connected to
11 something prior that gives rise to probable cause
12 for disorderly conduct violation?

13 A. What I saw in the video, I saw people
14 with tables and chairs.

15 Q. Were they carrying them?

16 A. The tables were on a -- some sort of a
17 dolly or a truck and the chairs were stacked and
18 somebody was holding them.

19 Q. Okay. Let's watch the video and I'd like
20 you to identify the dolly or truck or tables. My
21 understanding is in the video they're pushed up
22 against the fence. They're not displayed. They're
23 not up. They're actually folded up and out of the
24 way?

25 A. Yes.

1 H. Perkins

2 Q. Is that your testimony as well?

3 A. Yes.

4 Q. Within the five minutes that you can see
5 before somebody is arrested, what is it that you can
6 see that would give rise to a probable cause
7 violation if those tables aren't out, they're
8 further against the fence, they're not blocking
9 anything, what conduct do you see that could be
10 connected to something before and give rise to a
11 probable cause of disorderly conduct?

12 MS. ROBINSON: Objection. You can
13 answer.

14 A. If they had been out.

15 Q. Five minutes before, if they had been
16 out?

17 A. If they had been out and blocking the
18 sidewalk, that would have been -- would have --
19 could possibly have led the officers to address that
20 conduct.

21 Q. Okay. And in the five minutes that we
22 see when nobody is arrested, we don't see tables
23 out, do we?

24 A. I didn't see tables in the video.

25 Q. Is it your testimony that if tables had

1 H. Perkins

2 been out and were no longer out, that could lead to
3 probable cause to arrest for disorderly conduct?

4 A. I don't know what the interactions
5 between the officers and the protesters were. I
6 don't know what the order to disperse was given by
7 the officers. I don't know the time frame that it
8 took to pack up or the time frame they were given to
9 pack up and disperse. I don't know if they were
10 told to disperse.

11 But there are a lot of things that could
12 have happened prior to the video starting that would
13 have -- when we see the video at that point in time,
14 if they hadn't dispersed, there's the -- depending
15 on what the order was given. I can't say because I
16 didn't see what happened before.

17 Q. How did you find this video?

18 A. Going through YouTube and searching
19 "Occupy" titles.

20 Q. How long did it take you before you found
21 this video?

22 A. I was searching at my desk and the other
23 different videos. About an hour to look at all the
24 different videos that I had been looking at.

25 Q. How many total videos did you look at in

1 H. Perkins

2 that hour?

3 A. Approximately five.

4 Q. This is one of them?

5 A. Correct.

6 Q. Is this one of the first ones or one of
7 the last ones?

8 A. I don't know if it was the first one or
9 the last one or in the middle.

10 Q. Was it difficult to find?

11 MS. ROBINSON: Objection. You can
12 answer.

13 A. It was accessible on YouTube.

14 Q. Through a basic search?

15 A. Correct.

16 Q. For "Occupy"?

17 A. Mm-hmm.

18 Q. And you found it within the hour that you
19 were looking?

20 A. Correct.

21 Q. Along with other videos?

22 A. Correct.

23 Q. You could have found it in the first ten
24 minutes, it could have been the last one you found
25 in an hour?

1 H. Perkins

2 MS. ROBINSON: Objection. Calls for
3 speculation. You can answer.

4 A. It could have been the first one, could
5 have been the last one, could have been in the
6 middle. Could have been any of them.

7 Q. Could have taken you anywhere between
8 five minutes and an hour to find?

9 MS. ROBINSON: Objection. You can
10 answer.

11 A. I wasn't looking for it specifically, so
12 it's not a matter of the time it took me to find it,
13 it's when it came up on the -- when it came up
14 through the searches.

15 Q. Okay. I'm just trying to get the timing
16 down. That could have been within the first five
17 minutes of reviewing "Occupy" video it could have
18 been within the first hour of reviewing "Occupy"
19 video?

20 MS. ROBINSON: Objection.

21 MR. STECKLOW: Can you pull up the Koznar
22 video? The video we're about to watch, I'm
23 going to label it as the "Koznar activist
24 video" found on Gotham 31 -- sorry, on the
25 Gothamist website dated 2/29/12.

1 H. Perkins

2 MS. ROBINSON: Have you produced this
3 video?

4 MR. STECKLOW: It's been produced. It's
5 been at prior depositions. You've already seen
6 it.

7 MS. ROBINSON: I just want to know if
8 it's on the disk that you gave us.

9 Q. We're going to watch this and can you let
10 me know at any point you feel like, yes, I've seen
11 this video?

12 A. I don't think I have.

13 (Video played.)

14 MR. STECKLOW: Can you stop it here
15 please and identify the time?

16 MR. SHARKEY: 1:25.

17 Q. Did you recognize the officer that just
18 pointed and said "take him"?

19 A. No.

20 Q. Did you see that moment in the video?

21 A. No.

22 MR. STECKLOW: Let's go back a few
23 seconds.

24 (Video played.)

25 Q. Did you just see an officer approach and

1 H. Perkins

2 point at somebody and say "take him"?

3 A. Yes.

4 Q. Can you identify anything in the video
5 that would give you an understanding as to why that
6 happened?

7 A. No.

8 (Video played.)

9 Q. Did you just hear the same officer point
10 at somebody else and say "take him"?

11 A. No, I did not.

12 (Video played.)

13 Q. Did you just hear the officer point to
14 somebody else and say "take him"?

15 A. Yes.

16 Q. Did you see anything occur in that moment
17 that would have given rise to probable cause to make
18 an arrest?

19 A. I didn't see what happened.

20 Q. Was there anything you could see?

21 A. Not anything I could see in the video but
22 I couldn't see the incident he was pointing at.

23 (Video played.)

24 Q. Did you hear the officer now say "take
25 him" a third time to yet a different person?

1 H. Perkins

2 A. Yes.

3 Q. Did you see anything in the interim that
4 would give rise to cause for arrest there?

5 A. The video wasn't on the officer or on the
6 person that he was interacting with so I don't know
7 what happened. It wasn't on the video.

8 Q. When you say the person the officer was
9 interacting with, you mean the person that the
10 officer was pointing at?

11 A. The person that the officer was pointing
12 at or speaking to, they were not in the video.

13 Q. There was no interaction you can see.
14 There may not have been any interaction other than
15 the officer pointing at this individual saying "take
16 him"?

17 A. I didn't see the person he was pointing
18 to, so I don't know what prompted the officer to say
19 that.

20 (Video played.)

21 Q. Okay, now that you've seen the individual
22 that they arrested at that moment, can you identify
23 anything that you can see in the video that would
24 give cause for that arrest?

25 A. I don't know what he was engaging in

1 H. Perkins

2 prior to that, so I don't know why they -- I can't
3 speak to why they made that decision.

4 Q. Is there anything in the video that you
5 can see that would give rise to probable cause for
6 that arrest?

7 MS. ROBINSON: Objection. You can
8 answer.

9 A. There's nothing depicted in the video
10 that I can see that would give rise to that. I
11 didn't see anything in the video.

12 Q. From what you could see in this video,
13 did the policing of this sidewalk comport with the
14 training given at the academy for recruits?

15 A. I can't answer that because the video
16 doesn't show everything that happened. There's
17 nothing in the video that does not comport, but I
18 can't say if it does comport because I didn't see
19 the -- I didn't see the whole episode unfold.

20 Q. So like I asked in the earlier questions,
21 I'm asking you to focus on what you can see, not to
22 speculate on what may have happened before. In what
23 you can see, did these arrests comport with the
24 training again at the academy for recruits?

25 MS. ROBINSON: Objection. You can

1 H. Perkins

2 answer.

3 A. Again, what is depicted on the video does
4 not not comport, does not violate anything that's
5 trained at the academy. But because the video does
6 not show what the persons who are being arrested are
7 doing, I can't say -- I can't speak to whether it is
8 or is not -- does not comport with academy training.

9 Q. So, the officer that was pointing, is
10 that the incident commander?

11 A. No.

12 Q. Who would the incident commander be?

13 A. The incident commander may be at that
14 scene or the incident commander might be at a
15 different location. I don't know how -- why that
16 protest or demonstration was, I don't know how many
17 blocks it took up. I don't know how many officers
18 were assigned. The incident commander could have
19 been there or he could have been someplace else. I
20 don't know from the video.

21 Q. How do you know that that individual who
22 was pointing out who to arrest was not the incident
23 commander of this incident?

24 A. Because he was not the highest ranking
25 individual present.

1 H. Perkins

2 Q. Who was the highest ranking individual
3 present?

4 A. I don't know. I would have to review the
5 video and see if I can see who is in the video. But
6 again, even if they're present, that doesn't mean
7 they're in the video.

8 Q. Why is it you're sure that wasn't the
9 highest ranking officer present?

10 A. Because there were higher ranking
11 officers present.

12 Q. That you could see in the video?

13 A. Yes.

14 Q. And so, in sidewalk protest, who is
15 supposed to make the decisions about when there's a
16 probable cause to make arrest for disorderly
17 conduct?

18 A. Who makes the decision as to when there's
19 probable cause or who makes the decision to arrest
20 on probable cause?

21 Q. Is there a distinction between those two?

22 A. Yes.

23 Q. What's the distinction?

24 A. Because one can have probable cause and
25 not necessarily make the decision to make an arrest.

1 H. Perkins

2 Q. Okay. So, let's start with the first
3 one. Who makes the decision when there's probable
4 cause?

5 MS. ROBINSON: Objection. You can
6 answer.

7 A. The incident commander will make a
8 decision to arrest or a high ranking person
9 designated by the incident commander, depending on
10 the size of the protest, will make a decision or
11 communicate the decision down the chain of command
12 to make a -- to make arrests in a particular
13 situation. So, they will make the decision.

14 If they're making the decision to arrest,
15 they've also established that probable cause exists
16 and they will communicate that decision to the
17 officers who will be making the arrest.

18 Q. In the video that you could see, the
19 officer is pointing at people and saying "take him."

20 Was he making decisions to make arrests?

21 A. I don't know.

22 Q. Did it seem that he was being given
23 orders from elsewhere to make these arrests?

24 MS. ROBINSON: Objection. You can
25 answer.

1 H. Perkins

2 A. I don't know.

3 Q. From what you can see in the video?

4 A. From what I can see in the video, it
5 doesn't look that he was being given orders, but I
6 don't know if he was given specific orders.

7 Q. What certification do you have as an
8 instructor at the police academy?

9 A. I am MOI qualified, which is New York
10 State qualification to teach general topics in
11 policing.

12 Q. What does MOI stand for?

13 A. Methods of instruction.

14 Q. Who gave you that certification?

15 A. The state.

16 Q. What courses did you take in order to
17 receive that qualification?

18 A. The methods of instruction course.

19 Q. How long is that course?

20 A. It's a two plus week course. It's two
21 weeks and additional days. I'm not sure, it might
22 be one or two more days.

23 Q. Where is it given?

24 A. At the police academy.

25 Q. Who gives that course?

1 H. Perkins

2 A. The police officers -- sergeants and
3 police officers who have been designated as master
4 instructors by the state that can then review,
5 evaluate and grant certification to officers in
6 methods of instruction.

7 Q. What division of the New York State
8 issues those certifications?

9 A. I don't know.

10 Q. How are you sure that it's a New York
11 State certification when it's training given at the
12 New York City Police Academy?

13 A. Because they also train members that are
14 not part of the police department and because the
15 certificate is -- on the certificate it mentions the
16 state and I believe there are only two other
17 locations outside of Albany that are authorized to
18 give the methods of instruction course. I know that
19 it's the state and I don't want to misspeak as to
20 which division of the state gives that -- authorizes
21 that course.

22 Q. Is there --

23 A. Certifies that course.

24 Q. Is there any national certification that
25 the NYPD Training Academy has?

1 H. Perkins

2 A. Yes.

3 Q. What is that?

4 A. CALEA.

5 Q. What does that stand for?

6 A. I can't remember off the top of my head.

7 Q. What are the initials that you believe it
8 is?

9 A. I think it's C-A-L-E-A.

10 Q. And you believe that's a national
11 certification in police --

12 A. Yes.

13 Q. -- training?

14 A. In police academies. So, our -- our
15 lesson plans and course materials are reviewed to
16 see if they comport with the national accreditation.

17 Q. How often are they reviewed?

18 A. I believe it's once every four years.
19 Maybe once every three.

20 Q. In the relevant time period of 2004 to
21 2012, how many times was it reviewed by CALEA?

22 A. I don't know.

23 Q. Can you identify whether it was reviewed
24 by CALEA in the 2004 to 2012 time period?

25 A. Yes.

1 H. Perkins

2 Q. Can you identify when?

3 A. I believe it was 2009, but I can't -- I
4 can't say for certain.

5 Q. Do you know when NYPD began receiving its
6 state certification in methods instruction?

7 A. I don't know when it began, no.

8 Q. Do you know if it was receiving such
9 certification in the time frame of 2004 to 2012?

10 A. Yes.

11 Q. Do you know what IADLEST stands for?

12 A. No.

13 Q. Have you ever heard of the International
14 Association of Directors of Law Enforcement
15 Standards and Training?

16 A. No.

17 Q. How does the NYPD Academy measure whether
18 trainees understand the material they're being
19 trained upon?

20 A. There are various methods, demonstration,
21 quizzes, exams.

22 Q. In the relevant training subjects, how
23 does NYPD measure training learning or training
24 effectiveness?

25 A. Student response with their individual

1 H. Perkins

2 instructor and quizzes and exams.

3 Q. What percentage of recruits does not pass
4 the academy training course?

5 MS. ROBINSON: Objection. You can
6 answer.

7 A. I -- it varies each academy training.
8 There isn't a set number.

9 Q. From 2004 to 2,012 what percentage of
10 recruits did not satisfy the academy training
11 courses?

12 A. I don't have that. They would not have
13 graduated. If they don't pass the test, they don't
14 graduate the academy.

15 Q. How many cadets are in a recruit class?

16 A. It can vary from 100 to 800, 900.

17 Q. In --

18 A. Or more.

19 Q. In 2004 to 2012 what was the largest
20 group that passed through the academy?

21 A. I don't know.

22 Q. Would 800, more or less, be the larger
23 number?

24 MS. ROBINSON: Objection. You can
25 answer.

1 H. Perkins

2 A. Approximately, yes.

3 Q. Do you know out of a group of 800 how
4 many cadets wouldn't pass and graduate the academy?

5 A. Again, it depends on each class. There
6 isn't an average number because it's how many
7 recruits in that particular class. And the total
8 number of washout wouldn't necessarily reflect
9 passing of an academy quiz or test. It could be
10 because they didn't meet the physical requirement.
11 It could mean that they didn't meet some other
12 requirement. It could also mean that they left to
13 pursue a different career.

14 Q. Are there statistics or records kept
15 about how many members of a recruit class wash out?

16 A. Yes.

17 Q. What is that called?

18 A. What do you mean what is it called?

19 Q. Is there a specific name for those
20 statistics?

21 A. No.

22 Q. How would you find that if you wanted to
23 learn that?

24 A. We would submit a request to recruit
25 operations to find out what -- how many officers had

1 H. Perkins

2 washed out and then specifically asking about each
3 individual officer, why they had left the academy
4 into their training record.

5 Q. Does the NYPD Academy update its training
6 based on complaints lodged against NYPD activity at
7 protests?

8 A. I don't know.

9 Q. Would it be important for the NYPD
10 Academy to know about complaints lodged against
11 policing at protests?

12 A. No.

13 Q. Does the NYPD give ratings to officers
14 for their acuity at target practice?

15 A. Yes.

16 Q. How is that rating done?

17 A. Out of 50 rounds each is -- each round is
18 assigned two points and for every round they get in
19 the target, they're given two points.

20 Q. So, a perfect score would be a hundred?

21 A. Correct.

22 Q. Are there certifications or levels or
23 pins given to people at the top?

24 A. Yes.

25 Q. What are those called?

1 H. Perkins

2 A. It's a pistol proficiency that they got a
3 hundred percent.

4 Q. Is that the only one, a hundred percent?

5 A. Correct.

6 Q. So, if you miss one, you don't get a pin,
7 you don't get a certificate, you don't get any
8 recognition?

9 A. Correct.

10 Q. But if you get a hundred percent, you get
11 some type of recognition --

12 A. Correct.

13 Q. -- or acknowledgment?

14 Is there any other acknowledgment or
15 recognition for other aspects of the training given
16 at the academy?

17 A. Yes.

18 Q. What are those?

19 A. Top ten percent of the graduating class
20 are given gold braids that they can wear on their
21 dress uniforms at graduation.

22 Q. Do they wear it at any other times?

23 A. No.

24 Q. That's an overall. Let's get more
25 specific. You know, reward for recognition given

1 H. Perkins

2 other than the acuity at target practice and the top
3 ten percent of the graduating class?

4 A. In the time period, no.

5 Q. Has that changed?

6 A. For the uniform, while they're going
7 through the academy, yes. And there are different
8 ways of recognizing that while they're going through
9 the academy.

10 Q. What are the different things that people
11 can be recognized for now?

12 A. They can be recognized for academic
13 excellence. They can be recognized for excellence
14 at the range and excellence in the physical training
15 and tactics unit.

16 Q. So three separate --

17 A. Correct.

18 Q. -- components?

19 I'm sorry. I didn't say this before, but
20 just let me finish my question. I know that we're
21 doing well here, so I just want to get a clean
22 record.

23 That was about the recruits. Now about
24 the executive officers. Are there recognitions or
25 acknowledgments to them when they reach a certain

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H. Perkins

acuity at various courses or targets or things like that?

A. No.

Q. Does the NYPD give ratings to either recruits or executive officers in their acuity in understanding constitutional policing a sidewalk protest?

A. No.

Q. Does the NYPD give ratings to its supervising officers and its executive officers for their acuity in understanding constitutional policing of sidewalk protests?

A. No.

Q. Does the NYPD seek to measure effectiveness on an institutional level on its policing of sidewalk protests?

A. No.

Q. Does the academy provide any refresher courses to members of the service after they finish recruit training?

A. Yes.

Q. Is the refresher course given in any of the relevant training subjects?

A. No.

1 H. Perkins

2 Q. During the time period of June 1st, 2011
3 through September 30th, 2012, was there any specific
4 training given by the academy to either recruits or
5 members of service post recruit training concerning
6 "Occupy Wall Street"?

7 A. "Occupy Wall Street" specifically, no.

8 Q. During the time period June 30th, 2011 to
9 September 30th, 2012 did the academy provide any
10 training to the recruits or members who were
11 considered post recruit for training concerning
12 public protests?

13 A. Not specifically, no.

14 Q. During the time period of June 1st, 2011
15 to September 20th, 2012 did the academy give any
16 training to recruits or MOS who had finished the
17 recruit class concerning assemblies in public
18 places?

19 A. Yes, recruits.

20 Q. Anything post recruit training concerning
21 training concerning public protests and assemblies
22 in public places?

23 A. No.

24 Q. During the time period of January 31st,
25 2003 to September 2004 were there any trainings

1 H. Perkins

2 concerning protests related to the Republican
3 National Convention?

4 A. Yes.

5 Q. Was that training given to both recruits
6 and people who were post recruit?

7 A. Just post recruit.

8 Q. Was that given to executive level
9 training?

10 A. It was given to -- it was part of the
11 inservice training that would have been disseminated
12 out to each of the commands.

13 Q. So, what level of officer would be
14 receiving that training?

15 A. The academy would give it to the training
16 sergeants. The training sergeants would make sure
17 that that information was disseminated to everybody
18 in the command.

19 Q. Was there executive level training given
20 in that same time frame in regards to protests in
21 the Republican National Convention?

22 A. From the academy?

23 Q. Yes.

24 A. I do not know.

25 Q. Are you familiar with September 17, 2012

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H. Perkins

as a date of a large-scale protest in New York ski?

A. Yes.

Q. That's what we call a one-year anniversary of "Occupy Wall Street"?

A. Mm-hmm.

Q. You're going to have to indicate with a word.

A. Yes.

MR. STECKLOW: Off the record.

(Discussion held off the record.)

Q. To the academy trainers and instructors did NYPD policing of sidewalk protests on the one-year anniversary of "Occupy Wall Street" indicate whether policing of sidewalk protest was sufficient to comply with Constitutional limits on police power?

A. Repeat the question, please.

Q. Sure. To academy training instructors, did the NYPD policing of sidewalk protests on the one-year anniversary of "Occupy Wall Street" indicate that policing of the sidewalk protest was sufficient to comply with constitutional limits on police power?

A. I'm sorry. I'm still not understanding

1 H. Perkins

2 the question that you're asking. When you say to
3 academy instructors, what do you mean by "to academy
4 instructors"?

5 Q. I'm trying to identify whether the
6 instructors at the academy --

7 A. Okay.

8 Q. -- believed that the sidewalk protest
9 policing on the one-year anniversary of "Occupy Wall
10 Street" was sufficient to comply with constitutional
11 limits on police power?

12 A. Are you asking if the academy instructors
13 thought that the training provided by the academy on
14 those -- on the policing protests was sufficient and
15 comported with the Constitution; is that the
16 question?

17 Q. No. That's not the question. The
18 question is whether or not did the academy observe
19 any -- withdrawn.

20 Did the academy instructors observe any
21 of the police sidewalk protests on the one-year
22 anniversary of "Occupy Wall Street"?

23 A. I don't know.

24 Q. Did the academy instructors learn of any
25 issues, problems or difficulties incurred by the

1 H. Perkins

2 NYPD in policing the sidewalk protest on the one
3 year anniversary of "Occupy Wall Street"?

4 MS. ROBINSON: Objection. You can
5 answer.

6 A. I don't know.

7 Q. Did the academy either at the recruit
8 level or executive level make any changes to its
9 training based on the policing of sidewalk protests
10 throughout "Occupy Wall Street" starting in
11 September of 2011?

12 MS. ROBINSON: Objection. Outside the
13 scope. I'm going to direct her not to answer.

14 MR. STECKLOW: Can you read that back?
15 (Record read.)

16 MS. ROBINSON: I withdraw the objection.
17 You can answer.

18 A. I'm sorry. Would you please read it
19 back?

20 (Record read.)

21 A. I don't know.

22 Q. Earlier you testified that one of the
23 ways that the academy tests the effectiveness of its
24 training and whether recruits learn the material is
25 through testing, correct?

1 H. Perkins

2 A. Correct.

3 Q. Are there something called quizzes?

4 A. Yes.

5 Q. How often are those given?

6 A. They're given at the completion of each
7 chapter.

8 Q. How many chapters are there in the
9 recruit training?

10 A. Approximately 40 chapters.

11 Q. Are there quizzes given during the
12 executive level training?

13 A. I don't know.

14 Q. Obviously I'm asking about at the
15 academy --

16 A. Mm-hmm.

17 Q. -- or during academy training at the
18 executive level?

19 A. Mm-hmm.

20 Q. With that understanding, are there
21 quizzes given at the executive level training?

22 A. I don't know.

23 Q. Are there trimester tests at the recruit
24 training?

25 A. Yes.

1 H. Perkins

2 Q. Is that different than a quiz?

3 A. Yes.

4 Q. Can you explain the distinction between a
5 quiz and the trimester?

6 A. Okay. Quiz is given immediately upon the
7 completion of the -- or close to the completion of a
8 block of instruction which we call a chapter. And
9 it's meant to -- it's a ten-question quiz that's
10 addressing the points in that chapter. And it's a
11 way that recruits can see how their understanding of
12 the material is progressing and it's a way that the
13 instructors can see how well the recruits are
14 getting -- understanding material while they're
15 going along. Based on their answers on quizzes,
16 they get recommended for tutoring or there can be
17 extra help given if there's a problem of
18 understanding.

19 The trimester exam is what they're used
20 to rate on as far as being able to move to the next
21 phase of training. It is a hundred-question exam.
22 It covers everything, every chapter that was in that
23 trimester. And failure of that trimester exam, they
24 have to -- they're given one additional chance to
25 take the exam. And if they don't pass it, then they

1 H. Perkins

2 have to detrain.

3 Q. Then they wash out?

4 A. Correct.

5 Q. The fact it's called a trimester, does
6 that mean there are three of these in the recruit
7 training period?

8 A. Yes.

9 Q. There are three 100-question tests that
10 they must pass in order to graduate?

11 A. Correct.

12 Q. What does pass mean?

13 A. Seventy-five out of a hundred.

14 Q. Do they take the test in a classroom
15 setting? Do they take it online at home? How do
16 they take these tests?

17 A. During the period time covered, it's a
18 paper test they take with a Scantron in a classroom
19 setting proctored by two instructors.

20 Q. Is that the trimester or before the quiz
21 or both?

22 A. The trimester.

23 Q. And how are the quizzes taken?

24 A. The quizzes are taken in the classroom
25 with their company under the supervision of the

1 H. Perkins

2 instructor that teaches that block instruction.

3 Q. Do the -- withdrawn.

4 Are the test answers analyzed to
5 understand whether or not those specific topics are
6 properly being taught and therefore properly
7 being learned by the recruits?

8 A. Are they analyzed in what way?

9 Q. Are they analyzed in a way where you see
10 how many people answered question 37 wrong? And you
11 say, wow, we got a really big number of people
12 getting 37 wrong, let's figure out why that is?

13 A. Yes.

14 Q. Is that for all 100 questions?

15 A. Yes.

16 Q. Do you know how many of these questions
17 relate to the relevant training subjects?

18 A. There are different -- there's different
19 amounts of questions for each chapter for each
20 trimester. It's not the same chapters for each
21 trimester for each academy class. And it's not the
22 same questions for each area of the training. New
23 questions are written and introduced and old
24 questions are taken out all the time. So, there
25 isn't a set number.

1 H. Perkins

2 Q. But the quizzes relate to specific
3 chapters, correct?

4 A. Correct.

5 Q. Are there specific quizzes related to the
6 relevant training subjects?

7 A. Yes.

8 Q. Are those also analyzed to see whether or
9 not the recruits are all getting one question right
10 or wrong?

11 A. No, not in the same way.

12 Q. I think we have some of these exams. So,
13 I want to mark them and ask you to review them and
14 then I also think we have a 400-page statistical
15 analysis and I don't understand it at all and I'm
16 hoping you do. I only have just one copy because I
17 didn't want to kill more trees.

18 MS. ROBINSON: If you can just give me
19 the Bates numbers.

20 MR. STECKLOW: So, we're going to mark
21 this one as 10. This one, I believe, is the
22 trimester exam or exams and it starts on 19789
23 and finishes on 19836.

24 (Plaintiffs' Exhibit 10, quizzes,
25 19789-836, marked for identification.)

1 H. Perkins

2 MR. STECKLOW: I'm now going to ask you
3 to look at -- after you're done with that I'm
4 going to ask you to look at what's being marked
5 as 11, which starts on 19837 and completes on
6 20277.

7 (Plaintiffs' Exhibit 11, statistical
8 report for 2008-09 exams, 19837-20277,
9 marked for identification.)

10 Q. Have you had a chance to look at what's
11 been marked as Plaintiffs' Exhibit 10?

12 A. Yes.

13 Q. What does Plaintiffs' Exhibit 10 contain?

14 A. Quizzes.

15 Q. Are these quizzes for every chapter or
16 are these quizzes solely related to the chapters
17 relevant to the -- withdrawn.

18 Or -- I'll withdraw the whole thing.
19 We'll start again.

20 Does Exhibit 10 represent all quizzes
21 given in a given moment for the different chapters
22 or is it only related to the relevant training
23 subjects?

24 A. To the relevant training subjects.

25 Q. And can you identify by reviewing it when

1 H. Perkins

2 these were given?

3 A. No.

4 MR. STECKLOW: Off the record.

5 (Discussion held off the record.)

6 Q. So, you can't identify when these were
7 given, correct?

8 A. Correct.

9 Q. But each of these are 10-question
10 quizzes, correct?

11 A. Correct.

12 Q. And they would be related to the relevant
13 training subjects, correct?

14 A. The chapters would have relevant training
15 subjects in them, yes.

16 Q. But there is no analysis done to
17 understand if any one specific question is answered
18 wrong by everybody, every recruit, correct?

19 A. Correct.

20 Q. And we can't tell from looking at this
21 whether these were the quizzes utilized in the 2004
22 to 2012 time frame, correct?

23 A. Correct. Not by looking at them, no.

24 Q. Can you identify whether these were the
25 quizzes utilized in the 2004 to 2012 time period in

1 H. Perkins

2 order to evaluate a learning of the recruits in the
3 relevant training subjects?

4 A. I can't identify if these were the
5 quizzes used.

6 MR. STECKLOW: With that, we're going to
7 take a break. The time is now 2:54 and we are
8 off the record.

9 (A recess was taken from 2:54 p.m. to
10 3:11 p.m.)

11 Q. Have you had a chance to review
12 Exhibit 11?

13 A. Yes.

14 Q. What is Exhibit 11?

15 A. Exhibit 11 is the statistical report from
16 the exams in 2008 and 2009. So, there's the first,
17 second and third trimester exams and the makeup
18 exams.

19 Q. So, it's not the exams themselves, it's
20 the analysis, correct?

21 A. Correct.

22 Q. I just want to take the second page. You
23 take the first page. Because there's headings, and
24 I think if I understand the headings, I'll
25 understand what we're talking about.

1 H. Perkins

2 So, looking at the heading, the first
3 thing has a number, right? It's sort of each topic
4 has --

5 A. Yes.

6 Q. -- sort of three vertical columns, right,
7 and then they have a bunch of horizontal columns?

8 A. Correct.

9 Q. The three vertical columns, the first one
10 has a number. And is that the number on the test
11 that it was, the one through 100?

12 A. Correct.

13 Q. So right now looking at number 20,
14 policing legally 16. When it says policing legally
15 16, what does that 16 indicate?

16 A. That's the 16th question in the bank for
17 policing legally.

18 Q. Underneath the number 20 it says MCS.
19 What does that stand for?

20 A. I don't know what MCS stand for.

21 Q. The one above it says MCM. Do you have
22 any idea what had a stands for?

23 A. No.

24 Q. Below that is the number 1.00. Do you
25 have any understand what that stands for?

1 H. Perkins

2 A. Yes. That is how -- what is the weight
3 of that question. So that weight is worth one
4 point.

5 Q. As you testified, there's 100 questions
6 on each of these trimester exams?

7 A. Correct.

8 Q. Each one weighs one?

9 A. Correct.

10 Q. Now, looking across the top column that
11 starts with the number 20, the one I'm looking at
12 the next number seems to be 617. For each of them
13 on this page, which is six that I can see --

14 A. Mm-hmm.

15 Q. -- each of them has 617 as that number?

16 A. Yes.

17 Q. What does that mean?

18 A. There were 617 people taking the test.

19 Q. And then the number just below that,
20 policing legally is .96. What does that indicate?

21 A. That would be the percentage of people
22 that got it right. The percentage who scored
23 correctly.

24 Q. And so, on the top, across the very top
25 of the page where it says overall?

1 H. Perkins

2 A. Yes.

3 Q. And then it says omits?

4 A. Yes.

5 Q. Does omits mean that that column is who
6 didn't answer that question?

7 A. Correct, who skipped that question.

8 Q. Then it says A, B, C, D, E?

9 A. Correct.

10 Q. Those would be the answers that it could
11 have been?

12 A. Yes.

13 Q. And A and B are true/false so some
14 questions are true/false?

15 A. No, they're all multiple choice.

16 Q. So the true/false is just something
17 that's in the database that isn't utilized but it's
18 just in the statistical form?

19 A. It's in the database for analyzing tests
20 and quizzes. We do not use true and false in the
21 recruit trimester exams. There are other tests and
22 quizzes that are given that use the same database
23 and the same systems, the same program, that's why
24 it will say true and false.

25 Q. Then across the answer, the lines with

1 H. Perkins

2 the questions, starting again where I was looking at
3 which is policing legally, then I guess through the
4 letters A, B, C and D across the top it will tell
5 you how many of the 617 answered that way?

6 A. Correct. And then what the percentage of
7 the overall is.

8 Q. And so for these, there's no E, even
9 though there's an E in the column, they're all out
10 of four, it's either A, B, C or D?

11 A. Yes.

12 Q. And there's no A or B? It's all multiple
13 choice four?

14 A. Yes.

15 Q. Can you identify any question --
16 withdrawn.

17 Is there a level of incorrect answers
18 that require some sort of, you know, acknowledgment
19 and review?

20 A. Yes.

21 Q. What is that?

22 A. Sixty-five percent.

23 Q. So, as an example, number 19 here, on
24 page 3 which is 19839, that seems to have a 35
25 percent; is that accurate?

1 H. Perkins

2 A. Which question?

3 Q. Up here.

4 A. Yes.

5 Q. So, what would happen when that analysis
6 comes in?

7 A. Two days after the exam there's a meeting
8 with the testing unit, with the curriculum
9 evaluation unit, the commanding officer of the
10 recruit training unit and the lieutenants for the
11 day tour and the night tour because recruits are
12 trained on -- in both the morning and in the
13 evening. So the lieutenants for both of those would
14 be present.

15 The question would be discussed. It
16 would be evaluated if the question itself was worded
17 incorrectly or problematically, if the material in
18 the student guide was worded incorrectly or
19 problematically and a determination of whether or
20 not the question would be thrown out completely,
21 thrown out for that, there would be a double answer
22 for that exam. It might be changed for a future
23 exam and it would be evaluated as to whether -- why
24 that was such a low response.

25 Q. Okay. Would there ever be an analysis of

1 H. Perkins

2 any question that was uniformly answered correctly
3 with too high a percentage?

4 A. No.

5 Q. With the thought that, wow, no one ever
6 gets this one wrong, maybe it's a bit too easy,
7 doesn't really test someone's understanding, we're
8 giving this one away?

9 A. No.

10 Q. Is there -- withdrawn.

11 This is a statistical analysis of three
12 separate trimester exams?

13 A. This is the first trimester 2008.

14 Q. While you're looking, I'm also going to
15 ask you if there's any summary of the analysis in
16 any of these documents.

17 A. So, this is the first trimester.

18 Q. Identifying the first trimester starting
19 on 19837 and ending on 19848.

20 A. And that is -- no, this is still that
21 trimester. This is the same exam but for the --
22 there are two versions. These were the version one
23 and this is version two of the exam. Different
24 versions, same questions, just in different orders.
25 So that the -- it reduces the opportunity for

1 H. Perkins

2 anybody to, you know, someone taking the same exam.

3 Q. Reduces the possibility of cheating?

4 A. Cheating, correct. So that's the first
5 trimester exam, version one and version two.

6 Q. Version two begins on 19849 and ends on
7 19860.

8 A. Second trimester exam, version one starts
9 on 19861 and ends on 19872.

10 Q. Okay.

11 A. Version two starts on 19873 and ends on
12 19884. The second trimester makeup exam, which
13 would be for those who failed the trimester exam
14 itself and after a week of reinstruction are given
15 the opportunity to take the exam again, starts on
16 19885 and ends on 19896.

17 Q. Do any of these explain out of the total
18 number of student takers how many passed and how
19 many failed?

20 A. The makeup would be how many failed.

21 Q. So, in the makeup it's showing 40
22 students?

23 A. Mm-hmm.

24 Q. Forty students out of 617 failed?

25 A. No, 40 students out of 1200. It would be

1 H. Perkins

2 600 and 600.

3 Q. Because we're looking at the first
4 trimester and the second trimester?

5 A. No, the versions. Version one, half of
6 the academy takes version one --

7 Q. Forty out of 1200 failed and had to
8 retake it?

9 A. Correct.

10 Q. Can you identify from this how many
11 passed? This being the makeup analysis.

12 A. No, not from this particular piece of
13 paper.

14 Q. What's the next set?

15 A. Third trimester exam version one starts
16 at 19897. And that's 19908 is the end of version
17 one of the third trimester exam.

18 And apparently we go into third -- that's
19 only version one. I don't see version two of the
20 third trimester exam here. I do see the third
21 trimester makeup exam.

22 Q. How many people took that?

23 A. Fifty-three.

24 Q. What's next?

25 A. Here we go. This is third trimester.

1 H. Perkins

2 This starts on 19909 and ends on 19920. Now we have
3 the third trimester version two which starts on
4 19921 and ends on 19932.

5 Q. Since there's 400 pages here, I'm going
6 to ask you to turn to the end and see what the last
7 thing is. See sort of what the ranges might be.

8 A. The range goes to the third trimester
9 makeup exam that was given in 5/19 of '09.

10 Q. Are there -- during a given year, how
11 many academy classes are there?

12 A. Approximately, during the period of time
13 covered, approximately two academy classes.

14 Q. So, there would be approximately six
15 trimester exams times two for two versions, 12?

16 A. Yes.

17 Q. And then there would also be a makeup for
18 each one of the three for each class --

19 A. Given some failed.

20 Q. - another six?

21 A. Yes.

22 Q. So we think that we're looking at 18 or
23 so trimester exams here?

24 A. I will defer to your math.

25 Q. Can you look through, without identifying

1 H. Perkins

2 page numbers at this point, and tell me if you see
3 any summaries anywhere that give you an idea --
4 withdrawn.

5 MR. STECKLOW: I think we have summaries
6 from the makeup exam.

7 Q. Is there any way of understanding from
8 looking at what you're seeing how many people in the
9 makeup passed?

10 A. I'll look to see if there is.

11 Q. Have you seen a document that gives you
12 that information? Not here, but overall in your
13 experience.

14 A. Yes.

15 Q. Have you seen a document that summarizes
16 pass and fail rates?

17 A. Not rates, no. Just who -- what named
18 recruits pass and what named recruits failed.

19 Q. Is that the document you've seen for
20 makeup tests as well?

21 A. Yes.

22 MR. STECKLOW: All right. I think that's
23 it for that.

24 Q. Can you tell from your review there how
25 many of these questions tested the knowledge of a

1 H. Perkins

2 recruit on policing sidewalk protest?

3 A. No.

4 Q. Is there a way to look at the questions
5 and understand how many of the questions relate to
6 policing sidewalk protest?

7 A. From this paperwork, no.

8 Q. How would you do that if you had wanted
9 to do that outside of this paperwork?

10 A. I would have had to submit a request to
11 testing. All of the questions are kept locked away,
12 so you would have to request of testing to look at,
13 say, policing legally question number 23 from the
14 8/18/08 version one test, pull that out and you can
15 look at that question and you can see then what the
16 question was, what the possible answers were and see
17 what it was testing on.

18 Q. Okay. Thank you. Exhibit 10 which I
19 believe you testified were quizzes not the trimester
20 exam, correct?

21 A. Correct.

22 Q. Are they the same questions utilized in
23 the trimester exam?

24 A. No.

25 MR. STECKLOW: I would make a request and

1 H. Perkins

2 I'm going to put it in writing for the
3 trimester exams that match up these statistical
4 analysis so we can actually understand what the
5 questions are and review them that way.

6 MS. ROBINSON: Noted.

7 MR. STECKLOW: I think with that, that's
8 all I have.

9 MS. ROBINSON: I have a few questions.

10 MR. STECKLOW: I'm sorry. Give me one
11 second.

12 (Discussion held off the record.)

13 MR. STECKLOW: I was going to do this
14 afterwards, but I'll do it now. After the last
15 two deposition we had, September 18th and 20th,
16 we served plaintiffs' eighth set of document
17 requests on defendant both by e-mail and by
18 mail. And I haven't heard back. They're not
19 yet due, but just to make it clear, I'm going
20 to hand you another copy of it now.

21 MS. ROBINSON: Did you send it to Alison?

22 MR. STECKLOW: I e-mailed it to everybody
23 and then mailed it, I believe, to Alison. I
24 may have mailed it to you. I'm not going to
25 say I remember who I mailed it to. I know that

1 H. Perkins

2 I mailed it.

3 MS. ROBINSON: That's fine. If you
4 e-mailed it to everybody, then Alison...

5 MR. STECKLOW: I'm also going to hand you
6 what is a work in progress, but this would be
7 from today's deposition request. I believe I'm
8 going to update that. But I just wanted to
9 make sure that if I don't get around to
10 updating it, that discovery doesn't close
11 without me having serving it.

12 It's a little confusing, because we're
13 supposed to have two weeks after each
14 deposition to do demands, but today is the
15 close of fact discovery and we didn't ask the
16 court to extend it to correlate to these two
17 weeks. So I think I want to try to get
18 something out today anyway just to belt and
19 suspender the whole thing.

20 MS. ROBINSON: Okay.

21 MR. STECKLOW: But with that, I have no
22 further questions at this point.

23 MS. ROBINSON: Okay. I have a few
24 follow-up questions.

25 //////////////////////////////////////

1 H. Perkins

2 EXAMINATION BY

3 MS. ROBINSON:

4 Q. Sgt. Perkins, does the academy provide
5 training on the First Amendment?

6 A. Yes.

7 Q. And does the academy provide training on
8 the First Amendment with respect to protests and
9 demonstrations?

10 A. Yes.

11 Q. And what is the substance of that
12 training?

13 A. The academy provides training on allowing
14 persons to protest within the -- petition the
15 government, freedom of speech, speak their mind, do
16 it in a public place and the various aspects of
17 that. That there -- the police are -- it's our job
18 at a demonstration or protest to keep everybody
19 safe, to keep protesters safe as well as the people
20 on the street and the people that the protesters
21 might be protesting, to balance the needs of the
22 people to get where they're going with the rights of
23 the protesters to say what they need to say.

24 Q. Is the training that you just testified
25 to with respect to the First Amendment, is that

1 H. Perkins

2 included in any particular lesson plans?

3 A. The training is touched on in the
4 introduction to the law which talks about the
5 Constitution and the Bill of Rights in particular.
6 And is more specifically addressed on when talking
7 about particular offenses, when talking about public
8 order, maintaining public order. It's also
9 referenced in other areas of the training and it's
10 because the First Amendment -- the Bill of Rights
11 constrains police action in various ways that comes
12 in through training throughout the recruit
13 curriculum.

14 Q. And is this training also provided
15 somewhere in the police students' guide?

16 A. Yes.

17 Q. Where would that be located?

18 A. It would be in maintaining public order
19 and public -- maintaining public order when we teach
20 recruits about the offenses about public order,
21 introduction to the law, when talking about
22 authority to arrest and summoning, when talking
23 about the policing professionally and the various
24 roles of a police officer, the order maintenance
25 roles of a police officer throughout the curriculum.

1 H. Perkins

2 Q. Does the academy provide training --
3 withdrawn.

4 And is that training provided to all
5 recruits?

6 A. Yes.

7 Q. Does the academy provide training on the
8 Fourth Amendment?

9 A. Yes.

10 Q. And where do you -- where would you find
11 written materials with respect to the academy's
12 training on -- with respect to principles of the
13 Fourth Amendment?

14 A. The Fourth Amendment would be covered in
15 authority to arrest, introduction to law, search and
16 seizure, street encounters.

17 Q. And what is the Fourth Amendment -- I'm
18 going to refer back to the 30(b)(6) notice. What
19 are the constitutional limits on police power to
20 arrest pertaining to the Fourth Amendment?

21 MR. STECKLOW: I'm going to object. This
22 is beyond the scope of the direct examination.

23 A. With regard to the Fourth Amendment,
24 Fourth Amendment states that police need probable
25 cause in order to make an arrest.

1 H. Perkins

2 Q. Where -- is that the same place where you
3 would find the written materials that the academy
4 provides where you would find the principles of the
5 Fourth Amendment that probable cause is essentially
6 the same materials? If that makes sense.

7 A. The materials that cover the Fourth
8 Amendment in introduction to law talk about the
9 principles of the Fourth Amendment with respect to
10 making arrests, that would be under authority to
11 arrest.

12 Q. Does the police academy -- withdrawn.
13 And is that the training at the academy
14 with respect to the principles of Fourth Amendment,
15 is that given to all recruits, NYPD recruits?

16 A. Yes.

17 Q. Does the NYPD Police Academy train on
18 enforcement of PL 240.25?

19 A. Yes.

20 Q. What is PL 240.25?

21 A. Disorderly conduct.

22 Q. And in particular, is that blocking the
23 vehicular/pedestrian traffic?

24 A. Blocking, yes.

25 Q. And what is the state of mind required to

1 H. Perkins

2 enforce a violation for PL 240.25?

3 A. Intentional or reckless.

4 Q. Intentional or reckless; explain that,
5 please.

6 A. That in order to be charged with
7 disorderly conduct, the actions or whatever that
8 they are engaging in, they have to do so with intent
9 to cause a substantial inconvenience or recklessly
10 causing that inconvenience, which means being aware
11 that you're doing it and disregarding the risk that
12 you caused that substantial inconvenience.

13 Q. What kinds of blockage is necessary with
14 respect to enforcing 240.25 in what has been
15 referred to as a sidewalk protest?

16 A. It -- the recruits are instructed that in
17 order to enforce 240.25 that there has to be a
18 substantial blockage, substantial inconvenience;
19 that mere inconvenience does not raise to the
20 elements of the offense.

21 Q. And in the written materials that the
22 academy provides, where would that training be
23 found?

24 A. In the maintaining public order.

25 Q. Does the NYPD Police Academy train on

1 H. Perkins

2 enforcement of PL 240.26?

3 A. Yes.

4 Q. And where would that training be found?

5 A. In maintaining public order.

6 Q. And does the enforcement of 240.25 and 6
7 include training with respect to enforcing those PL
8 sections at demonstrations or protests?

9 A. It's -- demonstrations and protests are
10 discussed as part of the training material and
11 the -- not just with respect to those but with other
12 public order situations and offenses, it is
13 discussed with regard to in general and at protests
14 or demonstrations.

15 Q. And does the NYPD Police Academy provide
16 training on OGA?

17 A. Yes.

18 Q. Where would you find written materials
19 with respect to police academy training on OGA?

20 A. In maintaining public order.

21 Q. Are all recruits provided with that
22 training?

23 A. Yes.

24 Q. What is the state of mind required for
25 enforcement of OGA?

1 H. Perkins

2 A. Intention.

3 Q. And what is the substance of OGA? What
4 are the elements aside from the state of mind?

5 A. That the individual has to intend on
6 obstructing an official while doing their duty, so,
7 prevent them from performing their official duty,
8 but they have to intend to do so.

9 Q. And this training, is it provided to all
10 recruits at the NYPD Academy?

11 A. Yes, it is.

12 Q. Was training on the First Amendment,
13 Fourth Amendment and the disorderly conduct PL
14 sections that we've just discussed in OGA, were they
15 trained by the NYPD Police Academy during the period
16 2004 to 2012?

17 A. Yes.

18 Q. I'm going to show you what's been marked
19 as Exhibit 7.

20 A. Yes.

21 Q. Police academy training memo with respect
22 to disorderly conduct. I would just ask you to
23 review that and let me know if there is anything in
24 that memo that was not trained at the police academy
25 prior to December of 2007.

1 H. Perkins

2 A. With respect to how police officers are
3 expected to execute their job, no.

4 Q. So, would -- does Exhibit 7 require any
5 change to lesson plans, police academy lesson plans?

6 A. No.

7 MS. ROBINSON: That's all I have right
8 now.

9 MR. STECKLOW: Okay. I have follow-up
10 based on the questions you asked.

11 BY MR. STECKLOW:

12 Q. I believe you previously testified in
13 response to a question by Ms. Robinson that the
14 primary goal in policing protest activity is to
15 facilitate the pedestrians in protest; was that your
16 testimony?

17 A. It's to make sure that everybody stays
18 safe. So, not just the pedestrians in a protest,
19 but pedestrians that were walking past, people that
20 were operating a vehicle, entities against which the
21 people are protesting. Public safety is the -- and
22 maintaining public safety is the primary goal.

23 Q. And that was your earlier testimony to
24 Ms. Robinson, public safety is the primary goal?

25 A. I would have to read what I said but the

1 H. Perkins

2 primary goal is safety and -- one of the primary
3 goals is safety and -- of the people involved and we
4 also have to be there to insure that the rights of
5 the protesters to protest are upheld.

6 MR. STECKLOW: I'm going to ask for a
7 break for a second.

8 MS. ROBINSON: Yeah.

9 MR. STECKLOW: The time is now 3:44 and
10 we are taking a quick break.

11 (A recess was taken from 3:44 p.m. to
12 3:46 p.m.)

13 MR. STECKLOW: The time is now 3:46 we're
14 back on the record at my office at 217 Centre
15 Street.

16 BY MR. STECKLOW:

17 Q. I am going to show you what has
18 previously been marked as Plaintiff's Exhibit 4, the
19 demonstration lesson plan.

20 A. Yes.

21 Q. You testified that this lesson plan was
22 incorporated into other lesson plans that currently
23 exist at the NYPD, correct?

24 A. Yes.

25 Q. And that in the time period between 2004

1 H. Perkins

2 and 2012 this lesson plan was incorporated into
3 lesson plans that were taught at the academy --

4 A. Yes.

5 Q. -- correct?

6 And so, among the items in the lesson
7 plan, performance objectives?

8 A. Yes.

9 Q. What is a performance objective?

10 A. It is something that you want the
11 attendee of the training to understand by the end of
12 the training.

13 Q. So, what they do is, they list the
14 objectives that the course, the lesson plan attached
15 to it are supposed to teach?

16 A. Yes.

17 Q. And that subsequent to this lesson plan,
18 at some point did the NYPD change the term from
19 performance objectives to learning objectives?

20 A. Yes.

21 Q. Is that currently the words that are
22 used, learning objectives?

23 A. Yes.

24 Q. And in 2004 to 2012 that was the term,
25 learning objectives?

1 H. Perkins

2 A. They changed. Sometimes they were called
3 terminal performance objectives, performance
4 objectives, learning objectives. Learning outcomes
5 was also a word used at one point.

6 Q. Because the concept was that in the very
7 beginning we want the instructors to know, here's
8 what people should understand to your teaching at
9 the end, correct?

10 A. Correct.

11 Q. Can you read number two out loud?

12 A. Explain that the primary role at a
13 demonstration is to maintain order and prevent delay
14 to non-demonstrators.

15 Q. I think you missed a word so can you
16 please repeat that and make sure you use every word?

17 A. Explain that the primary police role at a
18 demonstration is to maintain order and prevent
19 delays to non-demonstrators.

20 MR. STECKLOW: I have no further
21 questions.

22 MS. ROBINSON: I have one follow-up
23 question.

24 BY MS. ROBINSON:

25 Q. Sgt. Perkins, how does the NYPD Police

1 H. Perkins

2 Academy train on how to protect protesters' rights
3 at demonstrations?

4 A. Talking about -- we train the recruits to
5 understand that protesters at demonstrations are
6 allowed to be able to protest, to be able to be
7 within sight and sound of the object of their
8 protest, that if there's enough space for them to
9 protest and the public to go about their business,
10 that that's okay, that we have to be able to make
11 sure that the protesters aren't in danger and that
12 the public is not in danger. That we have to
13 maintain our professionalism, that we have to make
14 sure that the protesters' rights are balanced
15 against everybody else's rights and it's not just
16 about one or the other.

17 Q. And did every recruit receive this
18 training during the period 2004 to 2012?

19 A. Yes.

20 Q. And is that training memorialized in any
21 written materials provided by the NYPD Police
22 Academy?

23 A. In the maintaining public order.

24 Q. Do the recruits' or police officers'
25 training transcripts reflect that First Amendment

1 H. Perkins

2 training, Fourth Amendment training, PL sections,
3 that they received that training at the academy?

4 MR. STECKLOW: I'm going to object
5 because I think we're now way beyond my
6 redirect. I asked three questions specifically
7 on this one lesson plan. I've given some
8 leeway. I think you're now a little far afield
9 of it.

10 MS. ROBINSON: Are you saying that I
11 can't ask the question?

12 MR. STECKLOW: I can't instruct your
13 witness not to answer. I'm telling you as an
14 attorney to be fair here and I think you're
15 beyond the scope -- and I think you were
16 slightly beyond the scope before, but, you
17 know, we're collegial and I wanted to allow you
18 to finish. You said you had just a couple.
19 But now we're about fourth, fifth question in
20 and I think you're continuously moving further
21 afield. So I'm asking that you withdraw the
22 question.

23 MS. ROBINSON: I'll withdraw the
24 question. I'll withdraw the question. Then I
25 don't have any further questions.

H. Perkins

MR. STECKLOW: Thank you. We're done.

(Whereupon, the proceedings were
adjourned at 3:52 p.m.)

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STATE OF _____)
) : ss
COUNTY OF _____)

I, HEATHER PERKINS, the witness
herein, having read the foregoing
testimony of the pages of this deposition,
do hereby certify it to be a true and
correct transcript, subject to the
corrections, if any, shown on the attached
page.

HEATHER PERKINS

Sworn and subscribed to before me,
this _____ day of _____, 2018.

Notary Public

I N D E X

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CERTIFICATE

STATE OF NEW YORK)

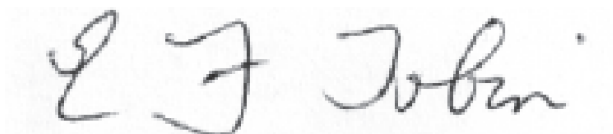
) ss.

COUNTY OF SUFFOLK)

I, Elizabeth F. Tobin, a Registered Professional Reporter and Notary Public within and for the State of New York, do hereby certify:

That Heather Perkins, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script, appearing to read "E F Tobin".

ELIZABETH F. TOBIN, RPR

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

E R R A T A

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HEATHER PERKINS

DATE

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COMMISSION EXPIRES

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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